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THE DESTINY OF THE NEGRO IN THE WESTERN HEMISPHERE

THE settling of the western hemisphere by peoples coming from Europe and Africa was an adventure on a grand scale, involving diverse peoples, varying cultures, millions of human beings, and hundreds of years. The common element was the New World. Its physical features and cultural types were strangely dissimilar, but the student discerns many an analogous design, patterned by the newcomers as they established themselves in the strange and unexplored regions. It is natural, therefore, for Gilberto Freyre to draw revealing similarities between the history of Brazil and the United States.[1] Like everything that he writes, this volume has a freshness and a lucidity that endow the reader with insight and understanding of the complex instrumentalities for life and labor contrived by man in his new world. Freyre finds in the development of Brazil, for example, the impact of the frontier and the dominion of the plantation so typical of our own South. The disparity, implied rather than expressed in the study, is the divergent position of the Negro within the two areas. For the Negro—and especially the Mulatto—had an access to the culture in Brazil, and a rôle in social life, unknown in the United States. In politics, in the arts and in society, the Mulatto found the door ajar even if not fully open, and a markedly different social milieu has come into being. Even under the Empire, the Negro and the Mulatto—and, socially, the attractive Mulatto women—found an acceptance unthinkable in the North American scene. Freyre quotes from Ewbank this revealing picture:

[1] Gilberto Freyre, *Brazil: An Interpretation.* New York, Alfred A. Knopf, 1945. vii, 179, ix pp. $2.00.

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> I have passed black ladies in silks and jewelry, with male slaves in livery behind them. Today one rode past in her carriage, accompanied by a liveried footman and a coachman. Several have white husbands. The first doctor of the city is a colored man; so is the President of the Province.

In another place, Ewbank points out that gentlemen of dark color achieved the dignity of president of the cabinet under the Emperor.[2]

A social atmosphere so dissimilar in two nations built in the New World by immigrants from the Old challenges analysis. It cannot be a mere accident. The way these two societies have gone must have an explainable etiology, and an examination of the source of the difference may illumine the present.

We are really concerned with one of the major race and population problems of the western hemisphere. The Negro is found everywhere in this hemisphere except Greenland, and there are regions where he is so numerous that long ago Humboldt spoke of a possible colored empire in the Caribbean. From Rio de Janeiro northwards, the coastal stretches of Brazil, French, Dutch and British Guiana, Venezuela, Colombia on both the Atlantic and Pacific, Ecuador and Peru have significant and, in certain districts, preponderant numbers of people of African origin. This holds true, likewise, for both coasts in Central America. In Mexico, the Negro on the coastal plains has largely merged with the Indian population, but even here traces of African influence are still visible, while our southern states, bordering on the Gulf of Mexico, the Mississippi and the Atlantic, have a colored population of many millions that in some rural sections outnumbers the whites. Even Canada and Alaska have a fraction of Negroes in their population. It is, however, on the islands in the Caribbean, rather than on the mainland of North or South America, that the Negro has acquired a dominating place. If Humboldt's reference is taken in a demographic rather than a political sense, the colonization of the western hemisphere has involved the settlement of many thousands of square miles by peoples who came from Africa rather than from

[2] Thomas Ewbank, *Life in Brazil; or Journal of a Visit to the Land of the Cocoa and the Palm* (New York, 1856), p. 266; Freyre, *op. cit.*, p. 101.

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Europe; and, if we draw an arc from Rio de Janeiro to Washington, D. C., and include the West Indian islands within it, we will have in outline the empire Humboldt talked about.

The enumeration of the colored people in the western hemisphere can only be approximate. The definition of Negro and Mulatto varies in different countries; the census records are incomplete in some, and out of date in others. In spite of that, however, even a rough estimate will help fix the magnitude of the problem. There are more than 13,000,000 Negroes in the United States, or 12 per cent of the total. Humboldt, at the beginning of the nineteenth century, adjudged the colored population of all the Antilles at 2,360,000, or 83 per cent of the total.[3] The more immediate record reveals the British, French and Dutch possessions and the Virgin Islands as almost completely colored. Of the larger islands, Barbados, with 174,774, has 7 per cent white; Jamaica, with perhaps a million, only 2 per cent of full European stock; and Trinidad, with 387,425, perhaps 4 per cent Caucasian. Of all the other British West Indies, only one, St. Kitts with 18,730 people, has as many as 6 per cent white. The rest have less than 5 per cent. (Nevis, Virgin Islands, and Grenada have only 1 per cent of their population, or less, white.) [4] One thing is clear—that the British West Indies belong demographically to people of African rather than European origin. These same conditions prevail in the French and Dutch Caribbean islands. Martinique, out of a population of over 240,000, has between three and four thousand whites. Very similar conditions prevail in Guadeloupe and in the minor islands. The Dutch islands, including Curaçao, have between 80 per cent and 90 per cent Negroes and Mulattoes.[5]

Only Cuba, Puerto Rico and Santo Domingo are not completely dominated by the colored race. For reasons too com-

[3] Alexander Humboldt, *The Island of Cuba*, translated from the Spanish by J. S. Thrasher (London, 1856), p. 186.

[4] W. M. Macmillan, *Warning from the West Indies* (London, 1936), p. 186.

[5] *The European Possessions in the Caribbean Area*, by Raye R. Platt, John K. Wright, John C. Weaver, and Johnson E. Fairchild (New York, 1941), pp. 53, 60, 74.

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plex to explain here, these areas were retained, in part at least, as a European habitat. In Santo Domingo, the white population is said to be 13 per cent of the total, the Negro 19 per cent, and the rest mixed;[6] whereas Cuba, in spite of the fact that in the first quarter of the nineteenth century it had more Negroes and Mulattoes than whites, counts at present about 27 per cent colored out of a population of about four million.[7] While Puerto Rico has 25.7 per cent colored,[8] the population of Haiti is almost completely Negro. The proportion of Europeans in the population in the Guianas is insignificant, while the Negro and Mulatto proportion in Brazil is very large. The identification of the Mulatto as white, and the tendency to speak of the Negro as being whitened out in Brazil, make most contemporary statements misleading. But we do have some historical evidence that tells its own tale. In 1817, there were, out of a population of 3,617,900, only 843,000 whites and 2,887,500 Negro freedmen and slaves, not to count another 628,000 mestizos—which in this case means mixtures of whites, Negroes and Indians. The rest were pure Indians.[9] This was before the very large importation of Negroes between that date and 1850, which probably reached a figure between three and five millions. In 1884, the number of slaves is given as 3,000,000. Even Simonsen, who tends to understate the importance of the Negro slave in Brazil, says that in the eighteenth and nineteenth centuries, there were 1,000,000 employed in sugar, 600,000 in mining, 250,000 in coffee, and 1,100,000 in other enterprises.[10]

The Argentine, which boasts of being pure European, merely forgets the record. In 1730, Father Chome tells us that Buenos Aires had 20,000 Negroes, about one half of the population;

[6] According to census calculations of 1935 cited in *Refugee Settlement in the Dominican Republic*, Brookings Institution (Washington, 1942), p. 86.

[7] Foreign Policy Association, *Problems of the New Cuba* (New York, 1935), p. 27.

[8] *United States Census of 1930*, "Outlying Territories and Possessions", Table 2, p. 136.

[9] Balbi, "Essai statistique sur le Royaume de Portugal", quoted in Roberto C. Simonsen, *Historia economica do Brasil, 1500-1820* (São Paulo, 1937), vol. 2, p. 56.

[10] Sir Harry Johnston, *The Negro in the New World* (London, 1910), p. 98; Simonsen, *op. cit.*, p. 205.

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and, according to De Moussy, there were some thirty thousand toward the end of the eighteenth century, out of a population of some 300,000.[11] During the same period, in a population of approximately 900,000, Venezuela had 60,000 Negro slaves and 433,000 Mulattoes.[12] There were few in Paraguay, perhaps less than 2 per cent of the total population.[13] Chile, at the beginning of the nineteenth century, had 30,000 Negroes and Mulattoes out of a population of about half a million, whereas in Peru there were well over 100,000 just at the end of the eighteenth century, and what is now Equador counted 50,000, and Colombia 210,000.[14]

Though statistical tables of racial composition in the population are always misleading, at least in the sense that they give an impression of finality which they do not possess, they are, when carefully prepared, useful as a source of reference. The accompanying table will help summarize and make graphic the magnitude of the problem we are here considering.

These figures add up to 41,140,719 people of color in the western hemisphere. Even if only relatively accurate, this is sufficiently impressive to call for a reconsideration of the rôle of the African people in this hemisphere. The settlement of America was not a purely European enterprise. It is more accurately described as a common undertaking by the folk coming from both Europe and Africa. For the slave trade is better viewed as a migratory movement—forced migration, if you will—but still one of the greatest population movements of all time. This movement stretched over more than four centuries (1442-1880) and was integrally related to the colonization of large parts of the western hemisphere.

[11] "Carta del Padre Chome, Sept. 1730", *Cartas Edificantes* (Madrid, 1756), T. XIII, p. 300. V. Martin de Moussy, *Description de la confédération Argentine* (Paris, 1860-64), vol. 2, p. 239.

[12] José Manuel Restrepo, *Historia de la revolución de la República de Colombia* (Paris, 1827), vol. I, p. 216.

[13] Natalicio Gonzalez, *Proceso y formacion de la cultura Paraguaya* (Buenos Aires, 1930), p. 36.

[14] Domingo Amunategui Solor, "La trata de negros en Chile", *Revista Chilena de Historia y Geografia*, vol. XLIV, October 1922, p. 39; Ricardo Donoso, *El marqués de Osorno, don Ambrosio Higgins, 1720-1801* (Santiago de Chile, 1941) p. 465; Restrepo, *op. cit.*, vol. I, p. 216.

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THE AMERICAN POPULATION IN 1940

	Indians	%	Mestizos	%	Negroes	%	Mulattoes	%	Total
NORTH OF MEXICO									
Greenland	17,557	97.54	Included in Indians				Included in Negroes		18,000
Alaska	32,464	44.86			150	.21			72,361
Canada	128,000	1.12			20,559	1.80			11,422,000
United States	361,816	0.27			13,455,988	12.01			131,669,275
TOTAL	539,387	0.37			13,476,697	9.42			143,181,636
MEXICO, ANTILLES, CENTRAL AMERICA									
Mexico	5,427,396	27.91	10,619,496	54.61	80,000	0.41	40,000	2.04	19,446,065
Antilles	200	0.07	10,000	....	5,500,000	39.29	3,000,000	21.43	14,000,000
Guatemala	1,820,872	55.44	985,280	30.00	4,011	0.12	2,000	0.06	3,284,269
British Honduras	2,938	5.00	5,875	10.00	15,000	25.55	20,000	34.03	58,759
Honduras	105,732	9.54	775,501	70.00	55,275	4.99	10,000	0.90	1,107,859
El Salvador	348,907	20.00	1,308,401	75.00	100	.0001	100	.0001	1,744,535
Nicaragua	330,000	23.90	828,172	60.00	90,000	6.52	40,000	2.88	1,380,287
Costa Rica	4,200	0.64	65,612	10.00	26,900	4.09	20,000	0.14	656,129
Panama	64,960	10.28	135,604	21.47	82,871	13.12	271,208	42.91	631,549
TOTAL	8,105,205	19.03	14,733,941	34.82	5,854,157	13.84	3,403,308	8.04	42,309,452
SOUTH AMERICA									
Colombia	147,300	1.60	4,234,890	46.00	405,076	4.50	2,205,382	24.32	9,206,283
Venezuela	100,000	2.79	2,000,000	55.86	100,000	2.79	1,000,000	27.93	3,580,000
English Guiana	15,000	4.39	10,000	2.93	100,000	29.30	80,000	23.44	341,237

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THE AMERICAN POPULATION IN 1940—*Continued*

	Indians	%	Mestizos	%	Negroes	%	Mulattoes	%	Total
Dutch Guiana	60,000	33.71	10,000	5.61	17,000	9.55	20,000	11.23	177,980
French Guiana	10,000	25.00	2,000	0.50	1,000	0.25	1,000	0.25	40,000
Ecuador	1,000,000	40.00	900,000	36.00	50,000	2.00	150,000	6.00	2,500,000
Peru	3,247,196	46.23	2,247,395	32.00	29,054	0.41	80,000	0.71	7,023,111
Bolivia	1,650,000	50.00	990,000	30.00	7,800	0.26	5,000	0.15	3,300,000
Brazil	1,117,132	2.70	4,135,660	10.00	5,789,924	14.00	8,276,321	20.01	41,356,605
Paraguay	40,000	4.16	672,000	70.00	5,000	0.52	5,000	0.52	960,000
Uruguay	Extinct		100,000	4.66	10,000	0.46	50,000	2.30	2,145,545
Chile	130,000	2.58	3,014,123	60.00	1,000	0.02	3,000	0.06	5,023,539
Argentina	50,000	0.38	1,312,972	10.00	5,000	.038	10,000	.076	13,129,723
TOTAL	7,566,628	8.52	19,629,040	22.10	6,520,854	7.34	11,885,703	13.38	88,784,023
SUMMARY									
North of Mexico	539,837	0.37	Included in Indians		13,476,697	9.41	Included in Negroes		143,181,638
Mexico, Antilles, Central America	8,105,205	19.03	14,733,941	34.82	5,854,157	13.84	3,403,308	8.04	42,309,452
South America	7,566,628	8.52	19,629,040	22.10	6,520,854	7.34	11,885,703	13.40	88,784,023
TOTAL IN AMERICA IN 1940	16,211,670	5.91	34,362,981	12.52	25,851,708	9.42	15,289,011	5.56	274,275,111

Adapted from Angel Rosenblatt, *La Población indígena de America, desde 1492 hasta la actualidad,* Institución Cultural Española (Buenos Aires, 1945).

NOTE: This is the most recent and the best documented history of racial distribution in the western hemisphere.

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Negro migration to Europe from Africa began in 1442, half a century before the discovery of America. In 1443, there was a shipment of 235 slaves to Portugal.[15] In 1448, the first "factory" was established in the island of Arguim for the purpose of the new commerce. By 1461, the trade had been regularized and was carried on peacefully in Senegambia, and the island of Arguim alone supplied, during the later half of the fifteenth century, an average of seven to eight hundred slaves per year.[16] What had hitherto been an internal migration in Africa had now become water-borne, first to Europe across the Mediterranean, and, later, with the discovery of America, across the Atlantic to the New World. African participation in the New World adventure began early, and in 1501 Nicholas Ovando, the new governor of Española, was advised to import Negroes born in Christian lands.[17] The first fifty Negroes from Africa were brought to the Antilles in 1511, and by 1517 the trade had been so well established that a regular *asiento* was given to the governor of Bressa to introduce 4,000 Negroes to America. The migration to America did not interrupt the flow to Portugal itself, and in 1552, in a population of 100,000, Lisbon had some ten thousand slaves with from sixty to seventy slave markets. There were, among them, 1,550 washerwomen, 1,000 street cleaners, and 400 who peddled crabs or cooked rice and other delicacies.[18]

From this time on, the movement was in full swing, and all of the European nations facing the Atlantic were drawn into it to a greater or less extent, and for longer or shorter periods. Portugal, France, the Netherlands, England, Denmark, Sweden, Spain and even Brandenburg participated in it, while, on the American side of the Atlantic, the English colonies, Brazil and Cuba at one time or another imported Negroes on

[15] Fray Bartolome de las Casas, *Historia de las Indias* (Madrid, Edition of M. Aguilar, 1927), Tomo I, Cap. 24, p. 129. Bryan Edwards, *History of the Island of St. Domingo* (Edinburgh, 1802), p. iii. J. P. Oliveira Martins, *O Brazil e as colonias portuguezas* (Lisbon, n. d.). J. Lúcio de Azevedo, *Epocas de Portugal económico* (Lisbon, 1929), p. 71.

[16] Oliveira Martins, *op. cit.*, p. 71.

[17] *Colección de documentos ineditos, Relativos al descubrimiento, conquista y organizacion . . . de Indias* (Madrid, 1842-95), vol. XXXI, p. 23.

[18] Azevedo, *op. cit.*, pp. 75-76.

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their own account. The number of Negroes transported will never be known. The subjection of the trade to fiscal ends by various governments led to extensive contraband, and the more officers set to watch the lawbreakers, the more participants in the illegal traffic there came to be. Nor did the abolition of the slave trade by Great Britain and the United States, in 1808, end the traffic. If anything, it may have increased it; for it is clear from the records that both Cuba and Brazil imported greater numbers annually after that date than before it. In fact, the transfer of Negroes did not cease until the abolition of slavery itself, not only in the United States but in Cuba in 1880, and in Brazil in 1888, and even then it continued out of Africa to Sãn Thome.[19] Portugal, which had been the first to enter the trade, was the last to leave it. There is no way of giving even seeming accuracy to the numbers imported, but a rough estimate may be obtained from the records for individual countries and periods.

Between 1511 and 1513, 1,265 Negroes of both sexes passed through the "Casa do Escravos" in Lisbon for the account of the king; and the Jesuit Father Garcia Simoëns describes the active commerce out of Angola in 1576, estimating the annual export from there alone at 12,000.[20] Between that year and 1591, 52,000 were shipped to Brazil; while the British West Indies, between 1680 and 1786, imported 2,130,000; and Cuba, between 1790 and 1820, imported 225,574, and from 1821 to 1847, an average annual number of some 6,000 to 7,000, not counting the numbers smuggled in.[21] The total number up to 1853, for Cuba alone, has been stated to be over 644,000, and we know that the importations continued after that.[22]

For Brazil, the importations all through this period were large and increasing. Between the years 1759 and 1803, the exports to Brazil from Angola are said to have amounted to 642,000,

[19] Johnston, *op. cit.*, p. 84.

[20] Dieudonné Rinchon, *La traité et l'esclavage des Congolais par les Européens* (Bruxelles, 1929), p. 59.

[21] *Ibid.*, p. 63; Bryan Edwards, quoted by Amos K. Fiske, *The West Indies* (New York, 1899), p. 105; Humboldt, *op. cit.*, p. 218; Oliveira Martins, *op. cit.*, p. 62.

[22] Humboldt, *op. cit.*, p. 219, footnote by translator. William R. Manning (ed.), *Diplomatic Correspondence of the United States, Inter-American Affairs, 1831-1860*, Vol. XI: *Spain*, 1854 (Washington, 1939), p. 765. *United States Foreign Relations*, 1865, Part I, p. 665.

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or an annual average of 14,000 to 15,000. Some Brazilian writers have put the numbers imported at an annual rate of 44,000 for the seventeenth century and 55,000 for the eighteenth. The imports into Brazil continued heavy until about 1850 and have been placed as high as 50,000 per year for the ten years between 1842 and 1852.[23]

All general figures are guesses, but the estimates are significant. One author[24] estimates the general migration from the Congo to America to have been 7,000 annually during the sixteenth century, 15,000 during the seventeenth, 30,000 during the eighteenth. And, for the first half of the nineteenth century, he places the number at the incredible sum of 150,000 annually to 1850, and as high as 50,000 between 1850 and 1860, and 2,000 between that date and 1885—a total of over 13,000,000 from the Congo from the beginning of the commerce. Exaggeration, it seems—but, how much? Another author estimates the total exported from all Africa for the entire period at 20,000,000.[25] Again an exaggeration? But by how much? Even a conservative estimate would hardly cut this figure in half. It really makes little difference how much it is cut, for the enterprise lasted over four centuries and engaged the energies of many commercially minded people in many parts of Africa, Europe and the western hemisphere.

Some check on these generalizations is provided by scattered records of the number of ships engaged in the traffic. Toward the last third of the eighteenth century, there were forty "factories" on the African coast belonging to the leading nations in Europe engaged in the African trade. Of those, ten belonged to the English, three to the French, fifteen to the Dutch, four to the Portuguese, and four to the Danes.[26] Each of these nations had ships of their own plying the Atlantic, carrying Ne-

[23] Oliveira Martins, *op cit.*, p. 62. Pandiá Calogeras, *Formação historica do Brasil* (Rio de Janeiro, 1930), p. 53. Percy Alvin Martin, "Slavery and Abolition in Brazil", *The Hispanic American Historical Review*, vol. XIII, No. 2, May 1933, p. 159.

[24] Rinchon, *op. cit.*, p. 133.

[25] Oliveira Martins, *op. cit.*, p. 64.

[26] Bryan Edwards, *The History, Civil and Commercial, of the British Colonies in the West Indies* (Philadelphia, 1806), vol. II, p. 255.

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groes across the ocean. In 1600 and later, more than a hundred Spanish and Portuguese ships entered Loanda every year, while 192 British ships were used in the year 1771 to bring 47,146 Negroes to the West Indies.[27] In 1788, the French engaged 98 ships to carry over 29,000 slaves to Santo Domingo.[28] Long after the active campaign to abolish the slave trade got under way, anywhere from 33 to 50 ships a year, between 1833 and 1840, entered the ports of Cuba, loaded with Negroes from Africa.[29] American-built vessels to the number of 64 were sold in Rio de Janeiro alone in the year 1845, and most of these were put to the slave trade; and, as late as 1848, 93 vessels sailed in the slave trade from Bahia.[30]

It can be seen from even these fragmentary illustrations—and they could be very greatly increased—that the ships were numerous and the trade continuous. How many ships, on an average, sailed annually during the four centuries? The ships were not large and most of them, perhaps, carried less than three hundred Negroes at a time. There were, it is true, toward the later part of the eighteenth century, ships that carried five hundred or more Negroes on a single voyage. But on the whole these were exceptions. If we put the number at three hundred Negroes per voyage—and that is probably an exaggeration—it took many hundreds of ships in the trade to carry that number of men across the Atlantic. Hundreds of ships, thousands of sailors, and hundreds, perhaps thousands, of individuals, partnerships and companies were engaged in bringing to the New World, south of the United States, more Africans than Europeans for the entire colonial period.

27 Rinchon, *op. cit.*, p. 68. Edwards, *History ... of the British Colonies in the West Indies*, vol. II, p. 258. "Dicky Sam", in *Liverpool and Slavery*, by a genuine "Dicky Sam" (Liverpool, 1884), cites thirteen years between 1771 and 1806 when more than 100 ships sailed in the slave trade every year, out of Liverpool alone.

28 Henry Brougham, *An Inquiry into the Colonial Policy of the European Powers* (Edinburgh, 1803), vol. I, pp. 530-531.

29 James Bandinel, *Some Account of the Trade in Slaves from Africa* (London, 1842), p. 232.

30 Lawrence F. Hill, *Diplomatic Relations between the United States and Brazil* (Durham, 1932), p. 129; William Hadfield, *Brazil, the River Plate, and the Falkland Islands* (London, 1854), p. 147, footnote.

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The Negro, much against his will, was to become a participant in the building of the New World. The migration continued for so long a time because of the heavy mortality ("almost half of the new imported Negroes die in the seasoning, nor does the poligamy which they use add much to the stocking of a plantation");[31] because, in parts of the New World, the Negro did not reproduce, and because men were more readily welcomed for the heavy labor than women. On the average, only one woman was imported for every three men. There were plantations in Cuba in the nineteenth century, for instance, that had as many as seventeen males to one female—and these women became common wives, prostitutes, incapable or unwilling to bear children. The life of the Negro plantation laborer in the West Indies is said to have lasted an average of seven years, and the replenishment went on; but if the migration had been by families, it would have been smaller in numbers and of perhaps shorter duration.

Despite the cost in life, sorrow and broken bodies, the Negro became the effective means for the colonization of vast American regions. Cotton and tobacco in the United States, sugar in the West Indies, cocoa in Venezuela, sugar, coffee and mining in Brazil, and a thousand other industries everywhere else were dependent upon the Negro. In Brazil, the Negro was so much the laborer that no one else seemed to labor at all, and until very recently it was something unseemly even to carry a small parcel in the city of Rio. As Mawe puts it, in Brazil the Negro seemed to be the most intelligent person he met, because every occupation, skilled and unskilled, was in the hands of Negroes. Even in Buenos Aires, theirs were the hands that built the best churches. They were the field hands; and in many places they were the miners. They were the cooks, the laundresses, the mammies, the concubines of the whites, the nurses about the houses, the coachmen, and the laborers on the wharves. But, they were also the skilled artisans who built the houses, carved the saints in the churches, constructed the carriages, forged the beautiful iron work one sees in Brazil, and

[31] Charles Leslie, *A New and Exact Account of Jamaica* (Edinburgh, 1739), p. 328.

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played in the orchestras. The Negro, slave and free, was the living hand that embellished the setting and provided the art and the spice for the cultured, easy and carefree life in which some of the New World plantation centers luxuriated for so long a time. The very pattern so characteristic of a large section of colonial and post-colonial life in this hemisphere derived from their skills, their loyalty, and their participation in the world about them, even as slaves.

Without the Negro, the texture of American life would have been different—different in lore, family, social organization and politics, and, equally important, different in economy. Conceivably, even the crops that the Negro cultivated in gangs, and sometimes under the lash, would not have been grown at all; and large parts of tropical and semitropical American land would have remained untilled and unnurtured. Viewed from any angle—biologically, in terms of physical labor, socially, and in the molding of the culture so typical of the western world—the Negro was for those areas where he labored and lived in large numbers just as important as his master; and his contribution to the population and settlement of this hemisphere is part of a common adventure of the folk from across the sea who have molded a new and a different social milieu for themselves. American colonization is, therefore, a joint Afro-European enterprise.

Looked at from the Negro's point of view, it has been a good adventure. In spite of the slave trade, in spite of the horrors of the middle passage, in spite of the centuries of slavery, the Negro has accommodated himself to the New World in a manner not merely creditable but surprising. The Indian, on the other hand, has either withered away and disappeared, as he did in the West Indies, or been killed and driven off, as in the plains of the United States and Argentina. Where he has not been extirpated from the earth, he has remained mostly a pariah in his native habitat. For example, compare the Negro in Cuba and Brazil to the Indian in Peru. The Negro in Cuba and in Brazil is an active member of the body politic; in Peru, the Indians form an isolated body, apart from the rest. Whereas the Negro has learned the language of the European, the Indian,

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by the million, has remained stubborn, uncommunicative, and isolated in his own linguistic universe. The same has happened with many other elements of European culture—dress, food, social customs, song, art, and matters of faith. The Negro is a magistrate on the city bench of New York, a member of Congress, he is a senator and a member of the cabinet in other places. He is part of the nation. He is active, vocal, self-assertive, and a living force. He has become culturally a European, or, if you will, an American. The Indian, where he has survived in large numbers, as in Guatemala for instance, has not identified in this way—it might almost be said in any way—with the European; for those things which he has taken over he has so amalgamated with his own native customs that their European origin is hard to recognize.

This adventure of the Negro in the New World has been different in the United States than in the other parts of this hemisphere. In spite of his adaptability, his willingness and his competence, in spite of his complete identification with the mores of the United States, he is excluded and denied. A barrier has been drawn against the Negro. This barrier has never been completely effective, but it has served to deny to him the very things that are of the greatest value among us—equality of opportunity for growth, and development as a man among men. With us, the shadow of slavery is still cast ahead; and we behave toward the Negro as if the imputation of slavery had something of a slave by nature in it. The emancipation may have legally freed the Negro, but it failed morally to free the white man, and by that fact denied to the Negro the moral status requisite for effective legal freedom.

This did not occur, however, in the other parts of this world which we call new and free. It did not occur because the very nature of the slave institution was developed in a different moral and legal setting, and in turn shaped the political and ethical biases that have manifestly separated the United States from the other parts of the New World in this respect. The separation is a moral one. We have denied ourselves the acceptance of the Negro as a man because we have denied him the

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moral competence to become one, and in that we have challenged the religious, the political and the scientific basis upon which our civilization and our scheme of values rest. This separation has a historical basis, and, in turn, it has molded the variable historical outcome.

The Negro slave arriving in the Iberian Peninsula in the middle of the fifteenth century found a propitious environment.[32] The setting, legal as well as moral, that made an easy transition possible developed out of the fact that the people of the Iberian Peninsula were not strangers to slavery. The institution of slavery, which had long since died out in the rest of western Europe, had here survived for a number of reasons, especially because of the continuing wars with the Moors which lasted until the very year of the discovery of America. At the end of the fifteenth century, there were numerous slaves in Portugal and Spain, and especially in Andalusia. Among them were not only Negroes, but Moors, Jews, and apparently Spaniards as well.[33] Indeed, we have records of white slaves sent to America by special permission of the Crown. We know that Rodrigo Contreras, the governor of Nicaragua, was allowed by a special *cedula* of July 15, 1534 to import two white slaves; and Fernando Pizarro in 1535 was permitted four white slaves. There are a number of similar records.[34] But the mere survival of slavery in itself is perhaps less important than the per-

[32] Elizabeth Donnan, *Documents Illustrative of the History of the Slave Trade to America,* Vol. I: *1441-1700* (Washington, D. C., 1930), p. 29: "For as our people did not find them hardened in the belief of the other Moors, and saw how they came in unto the law of Christ with a good will, they made no difference between them and their free servants, born in our own country. But those whom they saw fitted for managing property, they set free and married to women who were natives of the land, making with them a division of their property, as if they had been bestowed on those who married them by the will of their own fathers, and for the merits of their service they were bound to act in a like manner. Yea, and some widows of good family who bought some of these female slaves, either adopted them or left them a portion of their estate by will, so that in the future they married right well, treating them as entirely free. Suffice it that I never saw one of these slaves put in irons like other captives, and scarcely any one who did not turn Christian and was not very gently treated." Quoted from *The Chronicle of the Discovery and Conquest of Guinea,* by Gomes Eannes de Azurara.

[33] Rinchon, *op. cit.,* p. 44.

[34] Georges Scelle, *La traite négrière* (Paris, 1906), vol. I, pp. 219-220.

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sistence of a long tradition of slave law that had come down through the Justinian Code. The great codification of Spanish traditional law, which in itself summarizes the Mediterranean legal mores of many centuries, was elaborated by Alfonso the Wise between the years 1263 and 1265. In this code, there is inherent a belief in the natural equality of men; and slavery, therefore, is something against both nature and reason.[35]

This belief that equality among men is natural and reasonable is both pagan and Christian. It stems from the Stoics as well as from the Christian fathers. The conception that men are free and equal, especially equal in the sight of God, made slavery, as such, a mundane and somewhat immaterial matter. The master had, in fact, no higher moral status than the slave; and spiritually the slave might be a better man than his master. *Las Siete Partidas* were framed within this Christian doctrine, and the slave had a body of law, protective of him as a human being, which was already there when the Negro arrived, and which had been elaborated long before he came upon the scene. When he did come, the Spaniard may not have known him as a Negro, but the Spanish law and mores knew him as a slave and made him the beneficiary of the ancient legal heritage. This law provided, among other matters, for the following.

The slave might marry a free person, if the slave status was known to the other party. Slaves could marry against the will of their master, if they continued serving him as before. Once married, they could not be sold apart, except under conditions permitting them to live as man and wife. If the slave married a free person with the knowledge of his master, and the master did not announce the fact of the existing slave status, then the slave by that mere fact became free. If married slaves owned by separate masters could not live together because of distance, the church should persuade one or the other master

[35] "Servidumbre es postura et establescimiento qui ficieron antiguamente las gentes, por la qual los homes, que eran naturalmiente libres, se facian sivervos et se sometian a señorio de otri contra razon de natura." Ley I, título XXI, partida IV, *Las Siete Partidas del Rey Don Alfonso el Sabio, Cortejadas con Varios Codices Antiguos por la Real Academia de la Historia, y Glosadas por el Lic. Gregorio López del Consejo Real de Indias de* S. M. (Nueva Edicion, precedida del Elogio del Rey Don Alfonso por D. J. de Vargas y Ponce, y Enriquecida con su Testamento Politico; Paris, 1847).

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to sell his slave. If neither of the masters could be persuaded, the church was to buy one of the slaves, so that the married slaves could live together. The children followed the status of their mother, and the child of a free mother remained free even if the mother later became a slave. In spite of his full powers over his slave, the master was forbidden either to kill or to injure him, unless authorized by the judge. If the master abused the slave or attempted to starve him, the slave could complain to the judge, and upon verification of the complaint the judge was to sell the slave, giving the price to the owner. The slave was never to be returned to the original master. Any Jewish or Moorish slave became free upon turning Christian; and, even if the master himself later became a Christian, he recovered no rights over his former slave.[36]

Las Siete Partidas go into considerable detail in defining the conditions under which manumission may occur. A master may manumit his slave in the church, or outside of it, before a judge or other person, by testament, or by letter; but he must do this in person. If one of the owners of a slave wishes to free him, then the other must accept a just price fixed by the local judge. A slave becomes free against his master's will by denouncing a forced rape upon a virgin, by denouncing a maker of false money, by discovering disloyalty against the king, by denouncing the murderer of his master. The slave could become free if he became a cleric with the consent of his master or, in certain cases, without his consent, by providing another slave in his place. And if the former slave became a bishop, he would have had to put up two slaves, each valued at the price that he himself had been worth, while still a slave. A Christian slave living among the Moors might return to live among the Christians as a free man.[37]

The slave could appeal to the courts (1) if he had been freed by will and testament, and the document maliciously hidden (under these circumstances he could appeal against anyone holding him); (2) if he had money from another and entrusted it

[36] *Las Siete Partidas*, Ley I, tit. V, part. 4; Ley II; Ley II. tit. XXI, part. 4; Ley III; Ley VIII.

[37] *Ibid.*, Ley VI, tit. XXII, part. 4, Ley II, Ley IV, Ley VII.

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to someone for the purpose of being bought from his master and given his liberty, and if then this person refused to carry out the trust, by either refusing to buy him or to free him if he had bought him; and (3) if he had been bought with the understanding that he would be freed on the receipt of the purchase price from the slave and there had been refusal either to accept the money or to release him after accepting it. He could appeal to the courts for defense of the property of his master in his master's absence, and the king's slaves could appeal to the courts in defense of the king's property, or of his own (the slave's) person—a special privilege permitted the king's slaves in honor of their master.[38]

A man considering himself free, but demanded as a slave, might have a representative to defend him; a man held as a slave, but claiming to be free, might argue his own case, but could not have a representative; the slave's relatives might plead for him, even a stranger could do so, for "all the laws of the world aid towards freedom".[39] Slaves could be witnesses, even against their masters, in accusations for treason against the king; in cases of murder of either master or mistress by either spouse; or in cases of adultery against the mistress; when one of the two owners of a slave is accused of killing the other; or in case of suspicion that the prospective heirs had killed the master of another slave. A slave who became the heir of his master, in part or in totality, automatically became free. If a father appointed a slave as the guardian of his children, the slave by that fact became free; and if the slave of more than one person became an heir of one of his masters, the other must accept a price in reason for that part of the slave which belonged to him. He who killed his slave intentionally suffered the penalty for homicide; and, if a slave died as a result of punishment without intention to kill, then the master must endure five years' exile.[40]

This body of law, containing the legal tradition of the Spanish people and influenced by the Catholic doctrine of the equality

[38] *Ibid.*, Ley VII, tit. II, part. 3; Ley IX, tit. II, part. 3.

[39] *Ibid.*, Ley IV, tit. V, part. 3.

[40] *Ibid.*, Ley XIII, tit. XVI, part. 3; Ley XXI, tit. V, part. 6; Ley VII, tit. XVI, part. 6; Ley XXIII, tit. III, part. 6; Ley IX, tit. VIII, part. 7.

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of all men in the sight of God, was biased in favor of freedom and opened the gates toward manumission as soon as slavery was transferred to the New World.[40a] The law in Spanish and Portuguese America facilitated manumission, the tax gatherer did not oppose it,[41] and the church ranked it among the works singularly agreeable to God. A hundred social devices narrowed the gap between bondage and liberty and encouraged the master to release his slave, and the bondsman to achieve freedom on his own account. From the sixteenth to the nineteenth century, slaves in Brazil could, by offering the original purchase price, compel their masters to free them.[42] In Cuba and in Mexico, the price might be fixed at the request of the Negro, and the slave was freed even if he cost " triple of the sum ". The right to have his price declared aided the Negro in seeking a new master, and the owner was required to transfer him to another.[43]

The law further permitted the slave to free himself by installments, and this became a widely accepted custom, especially in Cuba.[44] A slave worth 600 dollars could buy himself out in twenty-four installments of 25 dollars each, and with every payment acquired one twenty-fourth of his own freedom. Thus, when he had paid 50 dollars, he owned one-twelfth of himself.[45] On delivering his first installment, he could move from his master's house, and thereafter pay interest on the remaining sum, thus acquiring a position not materially different

[40a] The *Real Cedula* of 1789 on the treatment and education of Negro slaves is a formal summary of older rules and practices long part of both the legal and social environment in the Spanish colonies.

[41] " In the Cuban market freedom was the only commodity which could be bought untaxed; every negro against whom no one had proved a claim of servitude was deemed free. . . ." Quoted from *British Slavery and Its Abolition, 1823-1838* by William Law Mathieson (London, New York, 1926), pp. 37-38.

[42] Johnston, *op. cit.*, p. 89. D. P. Kidder and J. C. Fletcher, *Brazil and the Brazilians* (New York, 1857), p. 133.

[43] Alexander Humboldt, *Political Essay on the Kingdom of New Spain*, translated by John Black (New York, 1811), vol. I, p. 181. Richard Henry Dana, Jr., *To Cuba and Back* (Boston, 1859), p. 249.

[44] Fernando Ortiz, *Los negros esclavos* (Havana, 1916), p. 313.

[45] Humboldt, *The Island of Cuba*, p. 211.

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in effect from a man in debt who had a specific monetary obligation. There seem to have been many instances of slaves paying out all of the installments due on their purchase price except the last 50 or 100 dollars, and on these paying one-half a *real* per day for every 50 pesos. The advantage in this arrangement apparently lay in the fact that a Negro, thus partially a slave, could escape the payment of taxes on his property and be free from military service.[46]

In effect, slavery under both law and custom had, for all practical purposes, become a contractual arrangement between the master and his bondsman. There may have been no written contract between the two parties, but the state behaved, in effect, as if such a contract did exist, and used its powers to enforce it. This presumed contract was of a strictly limited liability on the part of the slave; and the state, by using the officially provided protector of slaves, could and did define the financial obligation of the slave to his master in each specific instance as it arose. Slavery had thus from a very early date, at least in so far as the practice was concerned, moved from a " status ", " caste ", " by law of nature ", or because of " innate inferiority ", or because of the " just judgment and provision of holy script " to become a mere matter of an available sum of money for redemption. Slavery had become a matter of financial competence on the part of the slave, and by that fact lost a great part of the degrading imputation that attached to it where it was looked upon as evidence of moral or biological inferiority. Slavery could be wiped out by a fixed purchase price, and, therefore, the taint of slavery was neither very deep nor indelible.

In addition to making freedom something obtainable for money, which the slave had the right to acquire and possess, the state made manumission possible for a number of other reasons. A Negro could be freed if unduly punished by his master.[47] He was at liberty to marry a free nonslave (and the master could not legally interfere); and, as under the law the children followed the mother, a slave's children born of a free

[46] Ortiz, *op. cit.*, pp. 315, 317.

[47] Humboldt, *Political Essay*, p. 181.

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mother were also free.[48] Slaves in Brazil who joined the army to fight in the Paraguayan war were freed by decree on November 6, 1866, and some twenty thousand Negroes were thus liberated.[49]

In the wars of independence, many thousands of slaves in Venezuela and Colombia were freed by Bolivar and enlisted in the army of liberation. In Argentina, perhaps as much as a third of San Martin's host that crossed the Andes was composed of freed Negroes. Finally, as early as 1733, by a special *cedula* repeated twice later, slaves escaping to Cuba from other West Indian islands, because they wished to embrace the Catholic religion, could be neither returned to their masters, nor sold, nor given in slavery to any other person.[50]

Significant and varied as were these provisions of the law in the Spanish and Portuguese colonies, they were less important in the long run than the social arrangements and expectancies that prevailed. It was permissible for a slave child in Brazil to be freed at the baptismal font by an offer of 20 milreis, and in Cuba for 25 dollars. A female slave could seek a godfather for her baby in some respectable person, hoping that the moral obligation imposed upon the godfather would lead to freedom for the child. It was both a meritorious and a pious deed to accept such a responsibility and to fulfill its implicit commitments, and it bestowed distinction upon him who accepted them.[51] In the mining regions of Minas Garaes, a slave who found a seventeen and a half carat diamond was crowned with a floral wreath, dressed in a white suit, carried on the shoulders of fellow slaves to the presence of his master, and freed and allowed to work for himself.[52] Any parent, male or female, having ten children could claim freedom.

The freeing of one's slaves was an honorific tradition, and men fulfilled it on numerous occasions. Favorite wet nurses

[48] Henry Koster, *Travels in Brazil* (Philadelphia, 1817), vol. II, p. 202; Ortiz, *op. cit.*, p. 337.

[49] Martin, *op. cit.*, p. 174.

[50] Ortiz, *op. cit.*, p. 351.

[51] Robert Southey, *History of Brazil* (London, 1819), Part III, p. 784; Mathieson, *op. cit.*, p. 37; Koster, *op. cit.*, p. 195.

[52] John Mawe, *Travels in the Interior of Brazil* (London, 1812), p. 318.

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were often freed; slaves were manumitted on happy occasions in the family—a birth of a first son, or on the occasion of the marriage of one of the master's children. In fact, the excuses and the occasions were numerous—the passing of an examination in school by the young master, on a family festival, on a national holiday, and, of course, by will upon the death of the master.[53] A cataloguing of the occasions for manumission in such a country as Brazil might almost lead one to question the persistence of slavery; but, as we have pointed out above, the importations were large and continuous in Brazil all through the colonial period and late into the nineteenth century.

Opportunities for release from slavery were further facilitated by the system of labor that prevailed in many places, particularly in cities. Slaves were often encouraged to hire themselves out and bring their masters a fixed part of their wages, keeping the rest. Skilled artisans, masons, carpenters, blacksmiths, wheelwrights, tailors and musicians were special gainers from the arrangement.[54] Even ordinary laborers were allowed to organize themselves in gangs, *gente de Ganho,* as they were called. Preceded by a leader who guided them in a rhythmic chant, they would offer their services as carriers on the wharves of the city, or for any heavy work that came to hand. The description of these chanting gangs of Negro slaves in the city of Rio, carrying bags of coffee on their heads, their sweating bodies stripped to the waist, marching in rhythm to their song, is like nothing else in social history. Their wages were their own after they paid their master his share. Individual persons in Rio, otherwise poor, would make their living from the owning of one or more of these male or female slaves who were permitted to hire themselves out.[55] Women often hired themselves out as wet nurses, or peddled through the streets the colorful cloth of their own weaving, or embellishing. With all of its cruelty, abuse, hardship and inhumanity, the atmosphere in Brazil and the Spanish American countries made for manumission. Even in the rural regions, some slaves were allowed to

[53] Martin, *op. cit.*, p. 170.

[54] Ortiz, *op. cit.*, p. 318.

[55] R. Walsh, *Notices of Brazil in 1828 and 1829* (Boston, 1831), vol. II, p. 20.

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sell the products from their own plots given them to work for themselves, and to save their money toward the day of freedom. In Cuba, one writer notes that the raising of pigs by slaves provided a ready source of the accumulation of sums for such a purpose.[56] It should be further noticed that, in addition to their Sundays, the Negroes in Brazil had many holidays, amounting all together to 84 days a year, which they could use for their own purposes, and for the garnering of such funds as their immediate skill and opportunities made possible. The purchase of one's freedom was a tradition so firmly established that many a Negro bought the freedom of his wife and children while he himself continued laboring as a slave; and among the freed Negroes, societies were organized for the pooling of resources and the collecting of funds for the freeing of their brethren still in bondage.[57]

These provisions favoring manumission were strongly influenced by the church. Without interfering with the institution of slavery where the domestic law accepted it, the church early condemned the slave trade and prohibited Catholics from taking part in it. The prohibition was not effective, though in some measure it may have restricted the Spaniards to a rather limited participation. The slave trade had been condemned by Pius II, on October 7, 1462, by Paul III on May 29, 1537, by Urban VIII on April 2, 1639, by Benedict XIV on December 20, 1741, and, finally, by Gregory XVI on the third of December 1839. The grounds of the condemnation were that innocent and free persons were illegally and by force captured and sold into slavery, that rapine, cruelty and war were stimulated in the search for human beings to be sold at a profit.[58] The Franciscan father, Thomas Mercado, had condemned the slave trade in the strongest terms in the year 1587, on the grounds that it fostered two thousand falsehoods, a thousand robberies, and a thousand deceptions. The church, however, did not interfere with the cus-

[56] Abiel Abbot, *Letters Written in the Interior of Cuba* (Boston, 1829), p. 97.

[57] Arthur Ramos, *The Negro in Brazil*, translated from the Portuguese by Richard Pattee (Washington, 1939), p. 70.

[58] José Antonio Saco, *Historia de la esclavitud de la raza Africana en el Nuevo Mundo y en especial en los Paises Americo-Hispano* (Havana, 1938), T. 3, pp. 64-66.

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tomary institution derived from known practices in a given community; such as the status of persons born into slavery, persons enslaved in a just war, or who had sold themselves, or who had been condemned by a legitimate court.

The presumption against the slave trade was that it forced people into slavery outside the law and against their will. More important in the long run than the condemnation of the slave trade was the church's insistence that slave and master were equal in the sight of God. Whatever the formal relations between the slave and master, they must both recognize their relationship to each other as moral human beings and as brothers in Christ. The master had an obligation to protect the spiritual integrity of the slave, to teach him the Christian religion, to help him achieve the privileges of the sacraments and to guide him into living a good life, and to protect him from mortal sin. The slave had a right to become a Christian, to be baptized, and to be considered a member of the Christian community. Baptism was the sign of his entrance into the community, and, until he was sufficiently instructed to be able to receive it, he was looked upon as out of the community and as something less than human.[59]

From the very beginning, the Catholic churches in America insisted that the masters bring their slaves to church for the learning of the doctrine and participation in the communion. The assembled bishops in Mexico, in the year 1555, urged all Spaniards to send the Indians, and especially the Negroes, to church. It was the same in Cuba, in 1680.[60]

In fact, Negroes were baptized in Angola before leaving for their Atlantic adventure on the journey to Brazil. Upon arrival, they were instructed in the doctrine, and, as evidence of their baptism, carried about their necks a mark of the royal crown. As a Catholic, the slave was married in the church and the bans were regularly published.[61] It gave the slave's family a moral and religious character unknown in other American

[59] Koster, *op. cit.*, p. 199.

[60] *Concilios Provinciales, Primero y Segundo, Mexico, En los Años de 1555 y 1565* (Mexico, 1769), Concilio primero, Cap. III, p. 44. Saco, *op. cit.*, T. I, pp. 165-167

[61] Koster, *op. cit.*, pp. 198, 202.

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slave systems. It became part of the ordinary routine on the slave plantations for the master and slaves to attend church on Sundays, and, regularly before retiring at night, the slaves gathered before the master's house to receive his blessings.[62] If married by the church, they could not be separated by the master. Religious fraternities sprang up among the slaves. These were often influential and honorific institutions, with regularly elected officers, and with funds for the celebration of religious holidays subscribed to by the slaves out of their own meager savings. In Brazil, the slaves adopted the " Lady of the Rosary " as their own special patroness, sometimes painting her in black. In a measure, these religious fraternities emulated those of the whites, if they did not compete with them, and the slaves found a source of pride in becoming members, and honor in serving one of these religious fraternities as an official.[63]

If the Latin American environment was favorable, the British and American was hostile to freedom.[64] Obstacles were placed in the way of manumission legally, and it was discouraged in every other manner. The presumption was in favor of slavery. A Negro who could not prove that he was free was presumed to be a runaway slave, advertised as such, and, if no claimant appeared, was sold at public auction for the public benefit.[65] In Demerara, no slave could be manumitted without the consent of the Governor and Council. In many of the British colonies, heavy taxes had been imposed on manumission, and, as late as

[62] Alfred R. Wallace, *A Narrative of Travels on the Amazon and Rio Negro* (London, 1853), p. 92.

[63] Southey, *op. cit.*, p. 784.

[64] There were, briefly speaking, three slave systems in the western hemisphere. The British, American, Dutch and Danish were at one extreme, and the Spanish and Portuguese at the other. In between these two fell the French. The first of these groups is characterized by the fact that it had no effective slave tradition, no slave law, and that the religious institutions were little concerned about the Negro; and, at the other extreme, there were both a slave law and a belief that the spiritual personality of the slave transcended his slave status. In between them, the French suffered from the lack of a slave tradition and slave law, but did have the same religious principles as the Spaniards and Portuguese. If one were forced to arrange a scale of slavery in terms of the severity of the system, the Dutch would seem to stand as the hardest, the Portuguese as the mildest, and the French, in between, as having elements of both.

[65] Mathieson, *op. cit.*, pp. 38-40.

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1802, a law was passed in the Northern Leeward Islands requiring the owner who would register his slave for manumission to pay £500 into the public treasure,[66] and this sum had to be provided in the will if it made provision for the liberation of the slave. The slave could not be freed without the master's consent, even if the full price of the slave were offered. In the fear of an increase of freedmen, Barbados, in 1801, passed a law taxing the manumission of a female slave much more heavily than a male. St. Christopher, which taxed manumission for the first time in 1802, declared it to be a "great inconvenience... that [the number of] free negroes and ... free persons of color was augmented" by releasing slaves from bondage, and provided that a slave who had been released by his master, but not formally enfranchised, should be "publicly sold at vendue".[67]

In Virginia, in 1691, it was provided that a Negro could not be set free unless "pay for the transportation of such negro" out of the "country" within six months be provided. In 1723, an act provided that a Negro could be set free only by the action of the Governor and Council, and only for some "meritorious service". In 1805, Virginia prohibited emancipation unless the Negro left the state. In 1824, the Virginia courts ruled that the freeing of a mother by will after she reached a certain age did not apply to her children born after the date of the will.[68] Many similar statutes were passed in other states.

The slave had no protector to appeal to, and the master had, in some instances, complete power over him. An early Jamaican statute provided: "If any slave by punishment from his owner for running away, or other offence, suffer in life or limb, none shall be liable to the law for the same; but whoever shall kill a slave out of wilfulness, wantoness, or bloody-mindedness, shall suffer three months imprisonment and pay £50 to the owner of the slave." Thus, willful murder had been reduced to a misdemeanor if committed against a slave; but even more surprising is the fact that, if the murder was committed by an in-

[66] Johnston, *op. cit.*, p. 231.

[67] Mathieson *op. cit.*, pp. 38-40.

[68] *Judicial Cases Concerning American Slavery and the Negro*, by Helen Tunnicliff Catterall (Washington, 1937), vol. I, pp. 72, 73, 74.

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dentured servant, he too could expiate the crime by 39 lashes and 4 years' service.[69] Tennessee provided that the law defining the killing of a slave as murder shall not apply " to any person killing a slave . . . in the act of resistance . . . or dying under moderate correction." The Georgia Constitution again safeguards against the charge of murder, if the " death should happen by accident in giving such slave moderate correction ". In South Carolina, the act of 1740 provided that willful murder of a slave should cost the perpetrator " seven hundred pounds current money ", and this law remained on the statute books till 1821, and further provided that if the murder occurred " on sudden heat and passion " it shall cost him only £350. But for such minor punishments as willfully cutting out the tongue, putting out the eye, castrating, scalding, and similar offenses, it would, according to the above law, involve the culprit in a cost of merely " one hundred pounds of current money ".[70]

The slave had no protector to appeal to and he could not have his price specified for purposes of redemption and was not allowed to accumulate property to buy himself out. Thus the law of South Carolina, cited above, prohibited the slave from raising any horses, mares, cattle, sheep or hogs; and Georgia prohibited the master from allowing a Negro slave to hire himself out for his own benefit. This was true also in the case of Virginia. In 1779, North Carolina prohibited the ownership of animals by slaves. Mississippi prohibited a master from allowing his slave to trade like a free man; and in Maryland the slave was forbidden to keep " stock of any description " and could not acquire money, beyond his wages, for the purchase of the freedom of his children.[71]

There was no custom of freeing the children at the baptismal

[69] Leslie, *op. cit.*, p. 234. *The Laws of Jamaica Passed by the Assembly and Confirmed by His Majesty in Council April 17, 1684* (London, 1684). In 1696 willful killing of a slave was, on the second offense, to be considered as murder and punishable as such without benefit of clergy. *Acts of Jamaica, 1681-1737* (London, 1738), p. 8. In 1717 any one ordering a slave dismembered was to pay £100. *Ibid.*, p. 160.

[70] George M. Stroud, *A Sketch of the Laws Relating to Slavery in the Several States of the United States of America* (Philadelphia, 1856), pp. 60-61, 64, 66.

[71] *Ibid.*, pp. 76-77, 81.

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font for a nominal price, there was nothing known of the moral rôle of the godfather for the slave child, and his family had no status either in law or in public recognition.

The law recognized no marriage relation in law between slaves. There followed no inheritance of blood even after manumission,[72] and they were permitted to bear witness against one another. It was part of the record that "A slave never has maintained an action against the violator of his bed. A slave is not admonished for incontinence, or punished for fornication or adultery; never prosecuted for bigamy, or petty treason, for killing a husband being a slave, any more than admitted to an appeal for murder."[73] Under the law, generally a slave could not acquire property by earning it, by gift, or by inheritance. Not having any property, he could make no will, and could not take by descent, "there being in him no inheritable blood".[74]

The right of redemption seems to have been nonexistent, and the right to change master for cruel and unusual punishments was possible only in Louisiana and Kentucky, and in these states only under great difficulties, made harder because no slave could testify against his master.[75]

This contrast between the Spanish and Portuguese slave law on one side, and the English and American on the other, was further heightened by the different rôle of the church in the life of the Negro. The slaves in the British West Indies were almost completely denied the privileges of Christianity. The plantation owners opposed the preaching of the gospel on the grounds that it would interfere with the management of the slaves, make them recalcitrant, and put notions of rebellion and freedom in their minds. The argument that the Christian doctrine would make the slaves more obedient, and, therefore, more docile, aroused little response that was favorable among the

[72] *Ibid.*, pp. 243, 245.

[73] "Opinion of Daniel Dulany, Esq., Attorney-General of Maryland", *Maryland Reports*, 561, 563, quoted in Stroud, *op. cit.*, p. 99.

[74] Thomas R. R. Cobb, *An Inquiry into a Law of Negro Slavery in the United States of America* (New York and Savannah, 1858), p. 238.

[75] Stroud, *op. cit.*, p. 93.

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planters. More surprising than the attitude of the slaveowners is that of the church itself. It was but slight exaggeration to say, as does one writer on the West Indies, that "The English Church did not recognize them as baptisable human beings."[76] Although the Society for the Propagation of the Gospel, organized in 1701, declared through the mouth of Bishop Fleetwood, in 1710, that the three hundred Negroes which it had inherited in Barbados, had to be brought into the church, "that if all the slaves in America and every island in those seas were to continue infidels forever, yet ours alone must yet be Christian",[77] the church remained indifferent to its responsibility.

The official church did little indeed for the hundreds and thousands of West Indian Negro slaves. The Episcopalians confined their activities to the whites and left the Negroes to the dissident denominations. Even these came late upon the scene, and found little opportunity to preach the gospel. As a general rule, the missionary preachers were opposed, ridiculed, and, in some instances, driven out. The Quakers seem to have come first to the island of Barbados, but their efforts proved unfruitful, and it was not till the Moravians established their first settlements in Jamaica, in 1732, that the Protestant gospel found a voice among the slaves. By 1787, there were missionary stations, in addition to Jamaica, in Antigua, St. Christopher and Barbados. But the opposition to the preaching of the gospel continued into the nineteenth century and beyond the passage of the act abolishing the slave trade in 1808.

This persistent refusal of baptism "touched the English conscience to the raw",[78] but custom, tradition, hostility and fear on the part of the planters proved stronger than missionary zeal. As one writer puts it, "I sincerely believe and am well assured that the slaves being instructed would be less attentive to labor, less inclined to obey their overseers and other deputies, and would be more anxious and more easily enabled to throw off the yoke of slavery altogether."[79] The law had, in contrast

[76] Fiske, *The West Indies*, p. 108.

[77] Quoted in H. A. Wyndham, *The Atlantic and Slavery* (London, 1935), p. 235.

[78] Charles Booth, *Zachary Macauly* (London, 1934), p. 32.

[79] R. Bicknell, *The West Indies as They Are* (London, 1825), p. 120.

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to Spanish provisions, set up no requirements for the religious training of the Negroes,[80] and it was not till 1816 that the Assembly of Jamaica ordered the vestries to provide chapels, and the curates to attend on Sunday afternoons for the instruction of the Negroes, and to visit on two days a week the neighboring plantations for the same purpose. Action, however, was slow and indifferent, and as late as 1820 no chapel had been built in spite of the fact that some ten or twelve curates had by then been appointed, although some chapels were built after that.

We see, therefore, that it was only after the abolition of the slave trade, and when the very institution of slavery itself was on the verge of extinction in the British West Indies, that legal action favoring Christian teaching to the Negroes was adopted. The effect of all this upon the fortunes of the Negro was very serious. Not being a Christian, marriage in his case was not considered a sacrament and was not encouraged. The wife had no legal status, and the family, as such, was not a unit. Legally, the British slaves could not be married and the religious unions could be dissolved at any time. In the years of 1821-1825, one devoted missionary had married, in his own parish, 1,085 couples, and, in some of the others, the marriages in this period ranged from one to five.[81] This was in a slave population of over 300,000, while in most of the other British West Indies no marriages had ever taken place. Under an act of the British Parliament, slaves could be sold by the sheriff in the satisfaction of all debts.[82] It was not uncommon to break up the families of the slaves in the payment of debts as well as taxes.

The contrasts, therefore, between the Spanish and Portuguese slave system on the one hand, and that of the British and the American on the other, were very marked and worked themselves out in their effect not merely upon the slave but, even more significantly, upon the social position and moral status of the freedman. Under the influence of the law and religion, the

[80] In 1696 the Assembly of Jamaica had suggested that owners and overseers "shall as much as in them lies endeavour the instruction of their slaves in the principle of the Christian Religion" and shall do their best "to fit them for baptism". *Acts of Jamaica*, p. 80.

[81] Mathieson, *op. cit.*, p. 41.

[82] Edwards, *History ... of the British Colonies in the West Indies*, vol. II, p. 366.

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social milieu in the Spanish and Portuguese colonies made easy room for the Negroes passing from slavery to freedom. The older Mediterranean tradition of the defense of the slave, combined with the effect of Latin American experience, had prepared an environment into which the Negro freed from slavery could fit without visible handicap. Slavery itself carried no taint. It was a misfortune that had befallen a human being, and was in itself sufficiently oppressive. The law and religion both frowned upon any attempts to convert this into a means of further oppression. A *Real Cedula*, dated the 14th of November 1693, and directed to the Captain General of Cuba, expresses, in the name of the King, the following very revealing sentiments:

> That after privately calling the masters of these slaves, you say to them in my name that they must not, for whatever motive, rigorously tighten the wage they receive from their slaves, for having been tried in other places, it has proven inconvenient harming the souls of these people, which is a matter for grave scruples that for their own conscience' sake, the masters must avoid.... And at the same time, I command you that if at any time... [these masters] mistreat... [the slaves] you will apply the necessary remedy. It is not just to consent to, or permit any excess in this matter, for their slavery is a sufficient sorrow without at the same time suffering the distempered rigour of their masters. . . .[83]

If the law was solicitous to protect the Negro slave against abuse and defended him as a human being, the church opened its doors to him as a Christian, and, as early as the eighteenth century, in Brazil there were not only Negro priests, but even black bishops. And in Brazil, anyway, the Negro clergy seem to "have been more reverent, better living, more earnest than

[83] Quoted in Saco, *op. cit.*, T. 2, pp. 169-170. We may contrast this with the following: "....No man who knows anything of his own nature can suppose it to be possible that two races of men, distinguished by external and ineffaceable marks obvious to every eye, who had held towards each other from time immemorial the relation of master and slave, could ever live together as equals, in the same country and under the same Government. If, therefore, slavery be abolished, the one or the other of the races must leave the country or be exterminated. This choice would be for the slaves, because they are the weaker party." Abel P. Upshur, Secretary of State of the United States, to Edward Everett, United States Minister to Great Britain, Washington, Sept. 28, 1843; in Manning, *op. cit.*, vol. VII, p. 12.

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the Portuguese clergy." [84] Many things had conspired to give the Negro in Latin America a special place in the community. The fact that he had come with the conqueror, that in a measure he was part of the conquering host, that he was used by the whites as bosses and foremen over Indians in Mexico, Venezuela and other places, the fact that he, unlike the Indian, had learned the language of his masters and had taken many of his habits and customs, all combined to identify him with and make him part of the European community. In every instance, the Negro participated on equal terms with the whites in their wars, and, in some of them, he achieved the prestige of a national hero. Thus, in Brazil, one of the two national heroes, dating from early colonial wars against the Dutch, is Henrique Dias, a Negro. In Brazil, too, the Negroes had established their reputation for physical courage and military prowess in their mighty defense of the Negro Republic of Palmares (1650-1696), which required an army of six thousand men and many years to destroy. In the wars for independence, the Negro was an important element, and in Cuba the Negroes provided a majority of the army in the long struggle against Spain.

It is not surprising, therefore, that the political and social environment in Latin America has proved different from that in North America. Not only was the Negro encouraged to secure his freedom, but, once free, no obstacles were placed in the way of his incorporation into the community, in so far as his skills and abilities made that possible. In Brazil, the Negroes had done all of the work during the colonial period. It was in their ranks that all of the skills, crafts and arts were to be found, and it was from the ranks of the Negroes and Mulattoes that some of the great artists, musicians and sculptors were drawn. Rich planters in Brazil often educated their bright Mulatto children and even sent them to Lisbon in pursuit of learning. Negro slaves were often specially educated in specific arts, and Koster notes an instance of a planter who had trained up a private band of musicians by sending some of them to Rio and others to Lisbon.[85] The ranks of the regular army were open to free Ne-

[84] Johnston, *op. cit.*, p. 90.

[85] Koster, *op. cit.*, p. 174.

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groes and Mulattoes, and special Negro regiments were common, sometimes with their own Negro officers, not merely in Brazil but in Cuba, and during the revolution in Venezuela.

A peculiar feature of the slave system in Brazil and in other areas was the large plantation, belonging to different religious orders—the Franciscans, the Dominicans, and the Order of Jesus. On these plantations, the Negroes, who were seldom sold, were especially well treated and protected, and their moral and religious training was carefully supervised. In fact, the Negroes on these plantations considered themselves as belonging to the Saint rather than to the friars who looked after them.[86]

Upon gaining their freedom, the Negroes and their children found openings in private and public employment, and even in public office. If the question of color was raised, it became evident that the office took precedence over the color, so that a Mulatto captain was declared to be white. This happened even in cases of the nobility in Brazil. Where a Negro probably could not have found a place, a Mulatto could. How could a member of the nobility be anything but white? [87] Free Negroes had the same rights before the law, were allowed to hold property, and, from the beginning, took part in public life. The Negro had, in fact, acquired a moral personality while slavery still flourished; for all of these rights were enjoyed by the Negro when hundreds of thousands, and, in some instances, millions, of his fellow blacks were still suffering the evils of slavery.

Nothing said above must induce the reader to believe that slavery was anything but cruel. It was often brutal. The difference lies in the fact that the cruelties and brutalities were against the law, that they were punishable, and that they were perhaps not so frequent as in the British West Indies or in the American colonies. But these abuses had a remedy at law, and the Negro had a means of escape legally, by compulsory sale if the price were offered, and by many other means. More important was the fact that the road was open to freedom, and, once free, the Negro enjoyed a legal status equal to that of any other subject of the king, or to that of any other citizen of the state.

[86] *Ibid.*, pp. 217-218.

[87] Wyndham, *op. cit.*, p. 250.

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If we now contrast the position of the freed Negro and people of color in the British possessions with those we have just described, it will become evident that, whereas freedom in one place meant moral status, in the other it meant almost the opposite. In the British West Indies, the achievement of manumission merely involved a release from the obligation to serve a special master. It did not carry with it any new rights. As Edwards puts it:

> the courts of law interpreted the act of manumission by the owner, as nothing more than an abandonment, or release of his own proper authority over the person of the slave, which did not, and could not, convey to the object of his bounty, the civil and political rights of a natural-born subject; and the same principle was applied to the issue of freed mothers, until after the third generation from the negro ancestor.[88]

In most of the islands, freed Negroes or Mulattoes could not give evidence in court against white persons, or even against people of color. They were thus less protected than slaves who had their master to defend them against abuse or maltreatment. They were not permitted to serve even as petty officers of public trust, such as in parochial vestries or as constables. They could not hold office in the black militia, they could not vote. By a law of 1762 in Jamaica, they were deprived of the right to inherit more than £2,000, unless born of lawful marriage; and in Antigua a Negro could not own more than eight acres of land.[89] It was not till 1796 that people of color were allowed to give evidence in court against whites. Freed Negroes could not be tried by jury and were subject to the same procedure as slaves, and freed persons could not even testify against slaves till after 1748. It was not until 1824 that free Negroes were permitted to give evidence in the courts under oath. One of the difficulties in the situation was the fact that the Negroes, not being, as a general rule, members of the Christian church, were

[88] Edwards, *History . . . of the British Colonies in the West Indies*, vol. II, p. 217.

[89] "Laws of Jamaica", from *The Laws of the British Colonies in the West Indies and Other Parts of America*, by John Henry Howard (London, 1827), vol. II, p. 58; "Laws of Antigua", *ibid.*, p. 452.

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considered incapable of taking an oath, and, being deprived of that privilege, were automatically eliminated from all responsibilities and opportunities wherein the taking of an oath was a prerequisite.

The position of the manumitted Negro, or even of the Mulatto born of a free mother, was not propitious. The legal and social environment was discriminatory and hostile. The English community opposed manumission, feared the growth of the free colored population, and reduced those few who had found a route to freedom to as nearly a servile state as possible. In the United States, a very similar policy toward the freedmen developed. An act of manumission was merely a withdrawal of the rights of the master. It did not confer citizenship upon the freedmen. That power rested with the state.[90] They were not privileged to bear arms, they had to have a guardian to stand in the relation of a patron to them, and they were, in some instances, denied the right to purchase slaves as property. They tended to be placed on the same footing as slaves in their contacts with whites. These restrictions placed the freedmen but little above the slaves with respect to civil privileges. The penal slave code usually applied to freedmen. South Carolina, in 1740, applied a penalty of $100 to anyone who used a Negro as a scribe, or taught him how to write, and this law was further strengthened in 1834 to punish a free person of color by fifty lashes for the same offense.[91] Similar laws were adopted in a number of states. The law, the church, and social policy all conspired to prevent the identification of the liberated Negro with the community. He was to be kept as a separate, a lesser, being. In spite of being manumitted, he was not considered a free moral agent.

The different slave systems, originating under varying auspices, had achieved sharply contrasting results. If we may use such a term, the milieu in Latin America was expansive and the attitude pliable. The Negro may have been racially a new element, but slavery was a known and recognized institution—known especially to the law. The law had long since struggled

[90] Cobb, *op. cit.*, p. 313.

[91] Stroud, *op. cit.*, pp. 139, 240.

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with the subtleties of freedom and servitude, and had, over a period of centuries, created an elaborate code for the slave; and the new Negro slave was automatically endowed with the immunities contained in the ancient prescription. He was no stranger to the law. His obligation and freedoms within the code were both known. In fact, *the element of human personality was not lost in the transition of slavery from Africa to the Spanish or Portuguese dominions.* The Negro remained a person even while he was a slave. He lost his freedom, but he retained his right to become free again, and, with that privilege, the essential elements in moral worth that make freedom a possibility. He was never considered a mere chattel, never defined as unanimated property, and never under the law treated as such. His master never enjoyed the powers of life and death over his body, even though there were abuses and cruelties. Even if justice proved to be blind, the blindness was not incurable. The Negro slave had, under this system, both a juridical and a moral personality, even while he was in bondage.

This legal tradition and juridical framework were strengthened by and were part of the doctrine and practice of the Catholic religion. The church made him a member of the Christian community, it imposed upon both the slave and the master equal obligations of respecting and protecting the moral personality of the other, and for practical purposes it admitted the slave to the privileges of the sacraments. In the mundane world, it meant that marriage was a sacred union that could not be broken by mere caprice, that the slave had a right to his wife, and that the slave's family was, like other families, a recognized union in a moral universe, not different from that of his master's family. Here again, the religious prescriptions were perhaps as often violated as obeyed. But both the state and the church combined to maintain the principle of the rule by the exercise of civil and canon law. The church could and did thunder its opposition to the sins committed against the family —against all Christian families—regardless of color, and regardless of status. The church, further, in its emphasis upon the moral equality between the master and slave, came to favor manumission and to make it a deed laudable in the sight of God.

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The legal right to achieve freedom and the religious favoring of manumission, combined with a number of other features peculiarly Latin American, tended to make easy the path to freedom. That it was easy is seen by the large numbers of freedmen everywhere in Latin America during the colonial period and after independence.

It was the opinion of De Pons that in the Spanish colonies there were more freedmen and children of freedmen than slaves; and he cites for Venezuela that, out of a total population of 728,000, there were then 291,000 freedmen, or over 40 per cent of the total.[92] In the 103 years between 1774 and 1877, for which we seem to have a fairly accurate record for Cuba, the number of freedmen never fell below 32 per cent of the slave population, and in spite of the constant importation of new slaves, the freedmen were 41 per cent in 1774, and over 55 per cent in 1877.[93] In Brazil, it has been estimated that at the time of the emancipation there were three times as many free Negroes as slaves. In contrast, the free persons of color in the British West Indies were few. Cuba alone, in 1827, had 20,000 more free Negroes than all of the British Caribbean islands.[94]

The endowing of the slave with a moral personality before emancipation, before he achieved a legal equality, made the transition from slavery to freedom easy, and his incorporation into the free community natural. As there were always large numbers of freedmen and children of freedmen, it never seemed especially dangerous to increase their number. There was never the question that so agitated people both in the West Indies and in the United States—the danger of emancipation, the lack of fitness for freedom. There was never the horrifying spectacle, so often evoked in the United States, of admitting a morally inferior, and, therefore, by implication, a biologically inferior, people into the body politic on equal terms.

The experience in this matter of slavery of the nations other than those of the Iberian Peninsula was very different. They had long since lost all vestiges of slavery and a slave code. In

[92] F. R. de Pons, *Travels in South America* (London, 1807), vol. I, pp. 168-169.

[93] Ortiz, *op. cit.*, pp. 321-322.

[94] Mathieson, *op. cit.*, p. 40.

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neither tradition, policy, nor law was there room for the slave. The law did not know him and could not make provision for him when he came upon the scene. This is equally true of public practice and policy. The fact that the slave was a Negro merely added to the confusion; it did not create it. What made the difficulty was that, when the Negro slave was first brought in contact with the English, they did not know what to do with him. There was no recognizable place for him in the law. He certainly was not a free man; and the law did not know a slave. It was, therefore, no accident that in the early days, both in the West Indies and in the American colonies, he was, in practice, assimilated with the indentured servant. But this effort was of short duration and broke down, among other reasons, because the slave was not an indentured servant. The master had a contractual relation with the indentured servant—there was no such contractual relation with the Negro slave. The indentured servant's time was limited by contract to a specified number of years after which he was to be free. The master assumed with the indentured servant a certain number of future obligations. The indentured relationship was recognized by both sides as temporary and dischargeable with a specified emolument. The indentured servant was Christian, had his rights to his wife and children, over whom the master could exercise no legal compulsions. None of these terms fitted the slave. There was no contractual relationship with the slave. He had been bought from a third person. There was no time limit to the contract, there was no pecuniary obligation upon the master after the contract expired, and, finally, the Negro slave had no legal family. The master had bought the slave, the women and the children, paying separately for each. The slave had no rights in the law and acquired none by contract. The legal perplexity was real enough. It was made worse by the position of the Protestant churches. The slow, hesitant and doubtful approach to the problem of conversion merely increased the legal isolation of the Negro within the community, because as a Christian he would have acquired certain immunities and privileges belonging to all members of the established church. But the established church was inordinately slow in

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moving to bring him into the fold, and the dissident churches were not very successful nor very much respected in their endeavors until nearly the end of slavery as an institution in the West Indies.

In the absence of either religious or legal provision for the slave, it was not illogical for the planters, both in the West Indies and in the American colonies, to settle the legal issue involved by legally defining the slave as chattel. If he was neither a free man nor an indentured servant, then declaring him to be chattel disposed of the puzzle legally. Once this decision was made, the definition of the Negro brought in its train a whole series of consequences, both for the Negro and for the white community, which are reflected even at the present time. As chattel, the Negro slave lost all claims upon legal protection. The powers of the master were enormously increased, and, by definition, the Negro slave was reduced to a beast of the field. While the impact of the law did not and could not completely wipe out the fact that the Negro slave was human, it raised a sufficient barrier to make the humanity of the Negro difficult to recognize, and, legally, almost impossible to provide for. This legal definition carried its own moral consequences and made the ultimate redefinition of the Negro as a moral person most difficult.

The abolition of slavery found both the Negro and the white community unprepared for freedom. In the case of the Negro, there was almost a complete lack of preparation for the responsibilities characteristic of freedom. The number of freedmen was infinitesimal, their rôle in the free community greatly restricted, and they proved incompetent to absorb and direct the large body of slaves suddenly freed. The denial of a moral status to the slave as a human being was to prove the greatest handicap to the drawing of the Negro into the general community, because it kept the whites from that acceptance of the free Negro which would have facilitated the transition. Something of the same course, but much more disastrous in its consequence, worked itself out in the United States. Here, as in the West Indies, neither the law nor the church made adequate place for the slave as a moral person; here, as in the West Indies,

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the Negro family had no legal status; and here, as in the West Indies, the early attempts to identify the slave with the indentured servant broke down and the Negro was reduced to chattel. Here, too, the bias was in favor of slavery and against manumission, and the few Negroes who achieved the status of freedmen were frowned upon, isolated, discriminated against, and even expelled from many of the slave states. All of this does not deny the many thousands of instances of kindness, affection and understanding between master and slave, but these were personal and with no standing in the law. Legally, there was no effective remedy against abuse, and no regular channel toward freedom. With us there were not, as in Brazil, Cuba and Venezuela, large numbers of freedmen while slavery still existed, and, in our case, the slave had no moral status as a human being, and the Negro no experience in freedom.

It is, therefore, not entirely an accident that the abolition of slavery in the United States was achieved within the painful experience of a civil war, and followed by the almost equally painful and disintegrating process of a period of reconstruction. The Civil War gave the Negro legal equality with his former masters, but it could not and did not give him either the experience in the exercise of freedom, or the moral status in the sight of his white fellow citizens to make for them the freedom of the Negro an acceptable and workable relationship. The endowing of the Negro with a legal equality left a moral vacuum which remained to be filled. In Latin America, the Negro achieved complete legal equality slowly, through manumission, over centuries, and after he had acquired a moral personality. In our case, he was given his freedom suddenly, and before the white community credited him with moral status.

Herein lies the great contrast between the outcome of the two slave systems. The last eighty years in the United States may be characterized as a period within which the Negro has been struggling for moral status in the sight of the white community. It has been a painful, and for the Negro often a disillusioning, effort. But it cannot be denied that great progress has been made and that the moral position of the Negro within the United States is today much better than it was in 1865,

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after emancipation. The nature of our problem is conditioned by the time it will take for the Negro to have acquired a moral personality equal to his legal one. How long that will take is not predictable, but what is generally called the " solution " of the Negro problem is essentially a matter of establishing the Negro in the sight of the white community as a human being equal to itself. When that finally occurs, then the problem will have solved itself. It will have disappeared. But such an eventuality is a matter of time, and here, too, the Spanish and Portuguese peoples have a great advantage over the North Americans. They have lived with the Negro much longer than we have. The first Negroes were brought to Portugal in 1442, and in considerable numbers following that date, while the first Negro slaves to reach Virginia came in 1619, a hundred and seventy-seven years later. It will be the year 2123 before the people of the United States will have had as long a contact with the Negro as the Latin Americans now have. Taking the progress that has been made in the eighty years since emancipation, there is some hope that the Negro will, in time, have achieved in the United States as good a relationship as he now enjoys in Latin America. In fact, it may not be unreasonable to assume that the Negro in the United States, because of the greater opportunities available in our midst, will have forged morally a position no less favorable, and economically a better one, long before he has filled the time span of his sojourn among the Iberian people.

FRANK TANNENBAUM

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THE PRESIDENT, CONGRESS, AND LEGISLATION

SINCE the turn of the century the increasing importance of the president in the legislative process has received almost continuous discussion. The emergence of the chief executive as a force in the initiation and formulation of legislation is, in fact, primarily a twentieth-century phenomenon. When Woodrow Wilson wrote his classic treatise, *Congressional Government*, in 1885, he detected little tendency on the part of the president to take an active hand in shaping legislation.

It is true that some earlier presidents had conceived their responsibility broadly enough to include legislative leadership. During the administrations of both Washington and Jefferson executive influence was an important factor in shaping legislative policy. Secretary of the Treasury Alexander Hamilton, acting in the capacity of President Washington's personal representative, enjoyed singular success in gaining congressional acceptance of a comprehensive legislative program. Jefferson, as president, employed methods strikingly different to achieve similar results. He was truly the leader of his party at a time when party lines in legislation were much more clearly drawn than is the case today.

Thus, within the first twenty years, forceful and skilled executives demonstrated that our system of mechanical checks and balances need not constitute an insurmountable barrier to executive-legislative coöperation in legislation. During the succeeding years, however, the lessons so effectively presented at the threshold of our governmental development were largely wasted. Only occasionally did we have a president who consistently chose to seize the initiative and guide the Congress in the formulation of a legislative program for the country. In different ways and with varying degrees of success Jackson, Lincoln and Cleveland, as well as some others, sometimes sought to exert strong pressure in legislative matters. But these occasions occurred infrequently and the presidents concerned

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made no effort to assume general responsibility for legislative leadership.

It was only when Theodore Roosevelt came into office that the philosophy of the executive dominant in legislation received conscious application. During his seven years in the White House, Roosevelt invested the presidency with a dramatic and aggressive personal spirit. After the Taft interregnum, Woodrow Wilson's particular contribution was a more deliberate and a more effective party leadership. Finally, the multidimensional leadership of Franklin Roosevelt did much to create the impression that the congressional rôle in legislation had become definitely secondary.

Those who insist that the president has indeed become " chief legislator " [1] can offer persuasive evidence to support their thesis. Theodore Roosevelt's record in railroad and conservation legislation, Wilson's successful efforts on behalf of tariff, banking and business regulation, and Franklin Roosevelt's achievements in many fields of legislation are common knowledge. All of these men were forceful personalities who refused to accept a limited view of their duties and responsibilities. Each came into office at a time when the social and economic development of the country had rendered existing laws inadequate and the need for forward-looking legislation was acute. Congress, alone, was seemingly unable to produce results. In each instance the advent of the new president was accompanied by significant legislation, and there can be no question concerning the genuineness of his contribution. Without his catalyzing influence Congress would not have succeeded in bringing its own labors to fruition. It should be kept in mind, however, that the president's contribution was fundamentally that of making Congress effective, rather than that of creating something himself.

In the United States, legislation is characteristically a collegial process in which the rôle of the Congress is no less important than that of the president. During periods when the chief executive assumes the lead, the partnership between the executive and the Congress usually operates more efficiently. This

[1] The term was given general currency by Howard Lee McBain in his trenchant book, *The Living Constitution* (New York, 1927).

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does not mean that Congress has become less important. The legislative process is not like a seesaw where as one end goes down the other must automatically go up. It is, rather, like a gasoline engine which operates most efficiently when all of its cylinders are functioning. When the president becomes unusually active, there is a tendency to assume that the congressional cylinder has ceased to function. Such is not necessarily the case.

It does not detract from the importance of the president to point out that the tendency to magnify his participation to the exclusion or neglect of Congress may create impressions that not only are false but may be dangerously misleading. The spectacular examples afforded by taking a few highly publicized cases from the careers of our most aggressive presidents should not be given undue emphasis. Further investigation might show that the impressions created by these headline incidents lose some of their substance when considered in their proper context. With this thought in mind the writer undertook a detailed study of the legislative history of several major laws passed during the last fifty years for the purpose of identifying more sharply the persons who exercised greatest influence upon their form and substance. In this way it was hoped to indicate more clearly the relative contribution of the president and Congress in the formulation of at least some of our most important laws.

The period chosen has been the most significant so far as the rôle of the federal government is concerned. Except for a few important laws, among which might be mentioned the Morrill Act of 1862, the reconstruction legislation of the sixties, and some currency legislation, the period of federal intervention in economic and social matters does not antedate the 1880's. By examining a cross section of recent federal legislation on a relatively broad front, it was hoped that an accurate picture of the legislative process might be obtained. Consequently, approximately ninety major enactments of the past half-century were studied for the purpose of discovering their origins.

It is, of course, realized that in the final analysis the ideas for legislation originate with neither the president nor the Congress. Most legislation is in reality the product of forces external to any governmental agency. The proposal for governmental

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intervention, whether it comes from the president, the Congress, or the department concerned, may generally be understood to have originated with some group much more directly interested in the specific results of the proposal than are any of these agencies of government. The governmental agency thus becomes, as the term implies, merely the agent through which the proposal is made rather than the true initiating body; but this does not mean that it is entirely unrealistic to allocate responsibility as between the president and the Congress. Granting the thesis that most legislation in varying degrees has its origins in some private group rather than in any governmental body, the fact remains that pressure groups for all their importance cannot enact laws themselves. This is a prerogative which continues to be the exclusive possession of the legislative and executive departments of the government. Unless and until they act, the pressure groups fail to accomplish their objectives. For this reason the measures surveyed were not attributed to pressure groups unless the president and Congress abdicated so completely that the outside interests did in effect write the legislation in question.

The laws studied fall into ten categories: agriculture, banking and currency, business, government credit, immigration, labor, national defense, natural resources, railroads, and tariff. Within each of these general fields several federal laws of national import have been passed during the period under investigation. Some have been passed under the stress of emergency conditions, others in periods of comparative quiet. Some have been enacted during the administrations of aggressive presidents, others have come into being under presidents whose attitude toward legislation was more or less passive. The fields chosen do not embrace all federal legislation but they were selected because they embraced legislation extending over the greater part of fifty years and thus provided a basis broad enough to make possible the drawing of useful comparisons.

The specific acts within each of these fields are necessarily selective. The number of important laws passed in several of these fields has been large. Any attempt to select the ten most important is to invite challenge because it is impossible to establish a completely objective standard. Every effort was made,

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however, to select those acts which seemed to constitute a representative cross section of each particular field.

On the basis of the detailed study of the ninety laws selected they were allocated to four categories: laws in which the influence of the president was dominant; laws in which the influence of the Congress was dominant; laws in which the influence of both the president and the Congress was sufficiently great that they must be given joint credit; and laws in which the influence of outside groups transcended that of either the president or the Congress. These categories are not absolute. Few laws are so unmixed in their origins that they can be arbitrarily catalogued in any one of the above categories without a bit of straining. To a certain extent any measuring stick which may be developed must be subjective. No single formula can be devised which when applied to widely varying combinations of legislative action will automatically produce the correct answer, because each law presents special problems. Although the chronology of events from introduction to ultimate approval may indicate a superficial similarity, significant factors vitally affecting the finished product frequently defy sharp identification.

The allocation is based upon a weighing of the relative influence of the president and Congress in its total effect upon the particular law in question. In some cases the initial impetus has come from one, but the preponderant influence in the completed statute has been ascribed to the other after a careful weighing of all the evidence. Unless the impact of the president or the Congress when judged in terms of its total effect upon the form, substance and operation of the statute in question is sufficiently clear cut to remove reasonable doubt, the dilemma has been avoided by classifying the act as "joint". If this method is defective because it fails to accord sufficient weight to the more subtle factors present in all legislative activity, it has the merit of removing doubtful allocations from the area of controversy and of restricting conclusions to those statutes about whose origins the facts can be fairly definitely established.

The following tabulation indicates the classification assigned each law.[2]

[2] An asterisk indicates that one or more bills dealing with this subject had been introduced without administration support and had received substantial consideration in Congress before administration backing led to the enactment of the measure here listed.

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Presidential influence preponderant

Agriculture	:	1	Agricultural Adjustment Act of 1933*.
Banking	:	3	Silver Purchase Repeal Act of 1893; Emergency Banking Act of 1933; Gold Reserve Act of 1934*.
Business	:	3	Securities Act of 1933*; Securities and Exchange Act of 1934*; Public Utilities Holding Company Act of 1935*.
Credit	:	3	War Finance Corporation Act of 1918; Reconstruction Finance Corporation Act of 1932; Home Owners' Loan Corporation Act of 1933*.
Immigration	:	0	
Labor	:	1	Second Employers' Liability Act of 1908*.
National Defense	:	6	Militia Act of 1903; General Staff Act of 1903; Selective Service Act of 1917*; Naval Construction Acts of 1901-1905; Naval Construction Act of 1916; Navy Act of 1938*.
Natural Resources	:	0	
Railroads	:	0	
Tariff	:	2	Underwood Act of 1913*; Reciprocal Trade Agreements Act of 1934*.
		19	

Congressional influence preponderant

Agriculture	:	2	Capper-Volstead Act of 1922*; McNary-Haugen bills, 1924-1928*.
Banking	:	6	Currency Acts of 1873*; 1878*; 1890*; 1900*; 1908*; Glass-Steagall Act of 1933*.
Business	:	1	Sherman Act of 1890*.
Credit	:	3	Federal Farm Loan Act of 1916*; War Finance Corporation Revival Act of 1921*; Agricultural Credits Act of 1923*.
Immigration	:	9	Chinese Exclusion Act of 1882*; Chinese Exclusion Act of 1892*; General Immigration Acts of 1882*; 1903*; 1907*; 1913*; 1917*; 1921*; 1924*.

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Labor	:	3	Department of Labor Act of 1913*; Second Child Labor Act of 1919*; Norris-LaGuardia Act of 1932*.
National Defense	:	4	National Defense Act of 1916*; National Defense Act of 1920; Selective Service Act of 1940*; Naval Disarmament Act of 1920-1921*.
National Resources	:	2	Carey Act of 1894*; Act of 1897*.
Railroads	:	3	Interstate Commerce Act of 1887*; Valuation Act of 1913*; Transportation Act of 1920*.
Tariff	:	2	Wilson Act of 1894*; Payne-Aldrich Act of 1909*.
		35	

Joint presidential-congressional influence

Agriculture	:	3	Agricultural Marketing Act of 1929*; Soil Conservation Act of 1936; Agricultural Adjustment Act of 1938*.
Banking	:	4	Federal Reserve Act of 1913*; Thomas Silver Amendment of 1933*; Silver Purchase Act of 1934*; Banking Act of 1935*.
Business	:	2	Clayton Act of 1914*; National Industrial Recovery Act of 1933*.
Credit	:	2	Federal Home Loan Bank Act of 1932*; Emergency Farm Mortgage Act of 1933*.
Labor	:	4	First Employers' Liability Act of 1906*; First Child Labor Act of 1916*; National Labor Relations Act of 1935*; Wages and Hours Act of 1938*.
National Defense	:	3	Army Act of 1901*; Naval Construction Act of 1929*; Naval Construction Act of 1934*.
National Resources	:	7	General Revision Act of 1891*; Newlands Act of 1902*; Weeks Act of 1911*; Migratory Bird Act of 1913*; Migratory Bird Treaty Act of 1918*; Migratory Bird Refuge Act of 1929*; Taylor Grazing Act of 1934*.

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Railroads	:	4	Hepburn Act of 1906*; Mann-Elkins Act of 1910; Emergency Railroad Transportation Act of 1933; Transportation Act of 1940*.
Tariff	:	0	
		29	

Pressure group influence preponderant

Labor	:	1	Railway Labor Disputes Act of 1926*.
National Resources	:	1	Clarke-McNary Act of 1924*.
Railroads	:	1	Elkins Act of 1903.
Tariff	:	4	McKinley Tariff Act of 1890*; Dingley Tariff Act of 1897*; Fordney-McCumber Tariff Act of 1922*; Hawley-Smoot Tariff Act of 1930.
		7	

Of the ninety major laws studied, approximately twenty per cent fall to the credit of the president; roughly forty per cent were chiefly the product of Congress; about thirty per cent fall into the joint presidential-congressional category; and slightly less than ten per cent are identified as primarily the handiwork of external pressure groups.

This tabulation demonstrates the joint character of the American legislative process. Significant as this fact is, the tabulation fails to reflect another aspect of congressional participation in legislation which is equally fundamental. By allocating each law to the instrumentality chiefly responsible for its passage in final form, it has not been possible to indicate the origin of the proposal in the first place. One of the points brought out most clearly by the case studies was the depth of the legislative roots of most important statutes. For instance, a law is hailed as something new at the time of passage, but further examination reveals that the proposal had been discussed more or less continuously in Congress for several years. Presidential attention had led to its elevation from the obscurity of just another bill to the prominence of an administration measure.

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Administrative experts had participated by drafting a new bill but there was not very much in the new bill that had not been present in one or more earlier drafts. At all events, driven by the power now behind it, the bill becomes law without great difficulty or delay, while in the absence of presidential action years might have gone by without its adoption. The law is allocated to the category of presidential influence because its passage in final form was certainly not assignable to any other instrumentality. But the influence of what had taken place in Congress cannot be ignored. Had the initial proposal not been introduced and discussed, the final act might not have come when it did or it might have emerged in quite a different form. There is no way in which this preliminary activity can be assessed and it would be futile to attempt its measurement, but its importance is genuine. It is at least possible to indicate which of the ninety laws included in the survey was the end product of a bill or bills initiated within Congress and the subject of hearings and discussion there prior to the events leading to its final passage.

Of the entire ninety laws no less than seventy-seven (marked with an asterisk) trace their ancestry directly to bills which originally had been introduced without administration sponsorship. These bills or their successors had been the subject of hearings and committee consideration for periods ranging from a few months to a dozen or more years before they were passed with or without administration support. Presidential influence was dominant in the case of nineteen laws, but twelve of these had been originally initiated by Congress and had been the subject of extensive hearings. Among the twenty-nine laws classified as the joint product of the president and Congress, twenty-six trace their origin to bills which had been introduced without benefit of administrative support and had served as the basis for committee hearings and discussion.

These figures do not support the thesis that Congress is unimportant in the formulation of major legislation. Rather, they indicate, not that the president is less important than generally supposed, but that Congress is more important.

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An examination of the legislative history of the past ten years indicates a somewhat more one-sided distribution, but the influence of Congress was by no means negligible. Of the twenty-three laws in this survey which were passed after 1932, the president is credited with eight, Congress with only two, and the president and Congress jointly with thirteen. When the backgrounds of these laws are examined, however, the contribution of Congress assumes substantial proportions. For example, the Agricultural Adjustment Act of 1933 may be classified as presidential but the struggle for farm legislation which virtually monopolized the attention of several sessions of Congress during the twenties had left its mark. The almost continuous series of hearings had provided a clearing house for the various agencies, governmental and private, which were seeking some new formula for putting the farmer back upon his feet. The domestic allotment plan of 1933 did not spring into being overnight. Its lineal ancestry can be traced directly back to the earlier plans of the McNary-Haugen era. Congress acted in response to executive pressure in its speedy approval of the agricultural adjustment bill, and it did so in spite of the opposition of the two committee chairmen handling the bill, because the congressional mood at this time was one of coöperation. In this sense the priority of presidential influence was incontrovertible. On the other hand, the influence of previous congressional activity upon the substance of the bill requested by the president, while impossible to measure or weigh in exact terms, was no less important.

Similar influences can be pointed to in the case of the securities and exchange legislation of 1933-1934. The technical details of the two acts were not written in Congress, but the sentiment for regulation along these general lines had been growing steadily for more than twenty years. The legislative history of the holding company bill of 1935 reveals a parallel period of legislative preoccupation preceding presidential concern. Moreover, in several instances where bills have been classified as joint in influence, it is Congress and not the president that deserves the lion's share of credit not only for originating the idea in the first place but also for the drudgery of grinding

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out the provisions of the bill itself. The National Labor Relations Act of 1935, the Fair Labor Standards Act of 1938, the Taylor Grazing Act of 1934, and the Transportation Act of 1940, all owe much of their present substance to the efforts of Congress.

Viewing the entire ninety laws from the standpoint of subject matter, what do the figures reveal? Can generalizations be made regarding the presence or absence of presidential domination in certain fields? What about Congress? Does its influence run chiefly to certain categories or does it cover the entire panorama? What has been the history of pressure group dominance? Answers to these questions are suggested by the case studies.

The president has been consistently strong in the field of national defense legislation. Of the thirteen major laws included in this study, six have clearly been the handiwork of the president or his representatives. (Secretary of War Elihu Root rather than Theodore Roosevelt was the focal point of two important army laws passed during the latter's administration.) Even in this admittedly executive domain, however, Congress has made contributions of vital importance. Of the four acts wherein its influence was paramount, two were particularly important. These two, the National Defense Act of 1916 and the Selective Service Act of 1940, came during pre-war periods and both were passed during the administrations of presidents noted for their aggressive leadership. It is not only in post-war periods of reaction that congressional leadership comes to the fore. Neither do such events occur only when the White House is occupied by weak presidents.

Of the six laws regulating business, included in the survey, presidential influence dominated in the case of four. These figures are somewhat misleading, however, because all four of these laws came during the first two years of Franklin Roosevelt's administration. The National Industrial Recovery Act, the Securities Act, the Securities and Exchange Act, and the Public Utility Holding Company Act, all bear the imprint of the president. Congress passed them by healthy majorities but they are what they are because the president backed them even

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though his decisions reflected the influence of earlier congressional activity. This is a break with the past, for historically the president has not taken the lead in this field. The Sherman Act of 1890 was born without benefit of executive support. Despite the enthusiastic outbursts of Theodore Roosevelt about trust busting, no significant legislation was enacted during his stay in office. Wilson entered the White House with a program of business reform. The Clayton Act of 1914 and its sister statute, the Federal Trade Commission Act, may be cited as evidence of his influence. But the Clayton Act, popular legend to the contrary notwithstanding, was not an unqualified presidential victory. While it probably could not have been passed without Wilson's support, the substance of the final product was as least as much the work of Congress at it was that of the administration.

Those areas in which the influence of the president has been noticeably weak are no less interesting. In five fields—agriculture, immigration, labor, natural resources and railroads—presidential leadership has been unsteady. Six major statutes have been passed in the field of agriculture; of these only one, the Agricultural Adjustment Act of 1933, is credited to the president and then, as has been said, with qualifications. Two were primarily the work of Congress and three were the joint product of both. The most striking example of presidential weakness is found in the record of immigration legislation. Ten important immigration acts were passed during the period under study; not a single one of these was substantially influenced by the president. Several of them were outright defeats for him.

Only one of the nine important labor laws studied in this report owes its existence chiefly to the president. None of the ten laws dealing with natural resources conservation are credited principally to him. This seems surprising in view of the fact that Theodore Roosevelt's name is intimately associated with conservation in this country. Only one major conservation act, the Newlands Act of 1902, came during his administration. Roosevelt took a great interest in this bill, and his contribution to its final enactment was not inconsiderable. On the other hand, the contribution of Congress was not less

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important, and any just appraisal must classify the measure as of joint parentage. Finally, the president has not been a powerful figure in railroad legislation. Major enactments in this category during the period under study total eight. Not one of these eight can be classified as primarily executive. Three of them—the Interstate Commerce Act of 1887, the Valuation Act of 1913, and the Transportation Act of 1920—are listed as chiefly the work of Congress. The Hepburn Act of 1906, the Mann-Elkins Act of 1910, the Emergency Transportation Act of 1933, and the Transportation Act of 1940 came from both ends of Pennsylvania Avenue. Though the Elkins Act of 1903 came in the administration of Theodore Roosevelt, who was vitally interested in railroads, it was almost entirely the work of the railroads themselves.

In those areas where Congress has consistently played a major rôle, banking and currency and immigration stand out, with labor legislation only a few steps behind. Six acts—the Currency Acts of 1873, 1878, 1890, 1900 and 1908, and the Glass-Steagall Banking Act of 1933—owe most of their substance to Congress. Three others—the Federal Reserve Act of 1913, the Thomas Amendment of 1933, and the Silver Purchase Act of 1934—were at least as much influenced by Congress as by the president. Four statutes—the Silver Purchase Repeal Act of 1894, the Emergency Banking Act of 1933, the Gold Reserve Act of 1934, and the Banking Act of 1934—are classified as executive. Only in the case of the first two, however, was the influence of Congress negligible. The Gold Reserve Act of 1934 was virtually extorted from the administration by pressure from within Congress. In the case of the Banking Act of 1935, it was the Federal Reserve Board Chairman, Marriner S. Eccles, rather than the president who held the central rôle; the bill was approved by Congress only after substantial modifications had been written into its provisions.

Throughout the entire period under study, immigration legislation has been the exclusive prerogative of Congress. From the initial steps toward developing our national policy in the early eighties, congressional interest and activity have transcended that of the executive. When the president has attempted

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to impose his views he has received sharp rebuffs. The Act of 1913 became law over the veto of Taft; the Act of 1917 came into being under similar circumstances except that the president who suffered defeat this time was Wilson. The Act of 1924 was signed by Coolidge only after he had tried unsuccessfully to have certain of its provisions eliminated. One may argue that American immigration legislation would have been improved had the president been able to make his influence felt. For our purposes that is a point on which an opinion need not be expressed. The record shows that whatever immigration policy we have is the handiwork of Congress and not of the executive.

The conspicuous position of Congress in labor legislation may occasion some surprise. Particularly since the New Deal the impression has prevailed that the president stood as labor's champion against an indifferent if not a hostile Congress. Events since 1939 have indeed followed a pattern not inconsistent with this impression. Nevertheless, the record shows that from the very beginning Congress has taken a more active part in legislating in the interest of labor than has the president, and the record of the past ten years of New Deal hegemony has not upset the historic pattern. Nine major labor laws were passed between 1890 and 1940. Congress was chiefly responsible for three of these—the Department of Labor Act of 1913, the Second Child Labor Act of 1919, and the Norris-LaGuardia Act of 1932. Four others were the joint product of president and Congress—the First Employers' Liability Act of 1906, the First Child Labor Act of 1916, the National Labor Relations Act of 1935, and the Fair Labor Standards Act of 1938. In the case of employers' liability, Congress had been at work on such legislation for several years before a bill was finally pushed through with the aid of President Theodore Roosevelt. Not only was his contribution one of motive power; he also took an active interest in the substance of the bill, and its final form was in part due to his efforts. So far as the other three laws are concerned, the story is quite different. Wilson finally threw his support behind the child labor bill, and this was the deciding factor in its eventual passage. His aid was belated, however,

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and was supplied only after the real sponsors of the bill had overcome many difficulties that would have never occurred had he taken a strong position from the beginning. It is something less than fair to Congress to classify such a law as the joint product of president and Congress. A situation not essentially different accompanied the passage of the National Labor Relations Act when the admittedly indispensable presidential support was tardy in making itself felt. The history of the Wages and Hours Act presents a somewhat stronger record of executive participation. Of all the laws in this category it comes closest to being truly joint in authorship.

Natural resources legislation deserves special comment. Analysis of the ten laws falling within this broad grouping indicates that seven have been the result of joint activity of the president and Congress. Actually, this is not quite the case. "Administrative agency" would be more accurate than "president". The fount of much of our most far-sighted conservation legislation has been the man or men charged with the administration of the particular activity in question. In some cases it has been as far up the hierarchy as the department head, a man of cabinet rank. Just as frequently it has come from farther down the pyramid. Often men at the bureau level have been the real inspiration of much needed law. Men such as these, working hand in hand with members of Congress on the one side and with representatives of private interests on the other, have been the real pioneers of America's stumbling efforts toward a conservation policy.

A final word on a field in which the outside interests have prevailed—tariff legislation. Eight major tariff acts have been passed during the last fifty years. Half of these have been almost completely dominated by pressure politics: the McKinley Act of 1890, the Dingley Act of 1897, the Fordney-McCumber Act of 1922, and the Hawley-Smoot Act of 1930. Two—the Wilson Act of 1894 and the Payne-Aldrich Act of 1909—were influenced by Congress, more particularly by individual congressmen. At the outset the Wilson Act was an embodiment of a principle—a tariff for revenue only. Before it became law it had been subjected to a withering attack by numerous interest

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groups and much of its initial symmetry had been twisted out of shape by special concessions which its sponsors had been powerless to prevent. Even in this distorted condition the law retained a substantial proportion of its original substance. By comparison, at least, it can be stamped a congressional rather than a pressure group bill.

The Payne-Aldrich Act of 1909 is also classified as congressional, although its parentage was exceedingly complex. The original Payne bill was the answer of the House Ways and Means Committee to President Taft's plea for a general reduction of tariffs. As such it was written by the committee and it complied with the spirit of the president's message. By the time the bill emerged from the House it had lost some of its noble character, and when it reached the Senate Finance Committee it underwent almost total metamorphosis under the influence of Senator Aldrich and his associates. Its policy of moderation was transformed into a sharp restatement of the principle of protection. During Senate consideration representatives of special interests obtained so many additional increases in certain schedules that the bill lost all semblance to its original form. At the last moment President Taft interceded and managed to obtain a few relatively minor reductions in certain schedules. Yet, viewing the bill as a whole, one may say that its final form seems to have rested chiefly with Congress.

Two tariff laws, the Underwood Act of 1913 and the Reciprocal Trade Agreements Act of 1934, are definitely presidential. These two instances are important chiefly because they demonstrate that tariff legislation is no different from other legislation. When the president takes a strong stand and is willing to use the weapons of persuasion at his disposal, he can compete with the most powerful economic combines on more than equal terms.

The preceding pages fall short of being an unqualified tribute to Congress. It has upon occasion yielded ground to the chief executive; it has been guilty of rubber stampism for brief intervals; on some of the occasions when it has insisted upon making its influence felt the results have been unfortunate. Nevertheless, its record, even during the past ten years when its independence was at the ebb, compares not unfavorably with

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that of the president in terms of significant legislation achieved. The Banking Act of 1933, the National Labor Relations Act of 1935, and the Selective Service Act of 1940 have been inseparably bound up with the country's recent history. No three executively inspired laws hold a more prominent place. Furthermore, measured in terms of influence upon many executive proposals which have ultimately become law, the impact of Congress has been consequential. In some instances congressional initiative spurred the president to action when he would have preferred to wait; in others presidential inactivity was compensated for by independent congressional action. But of even greater importance, viewed in terms of its long-range effects, has been Congress' service as a center for the origination and maturing of innovative legislation.

Even the most severe critic of Congress would not deny that it has been sensitive to the ever-increasing areas demanding recognition by the federal government. Most of the great mass of regulatory legislation of the past decade, popularly dubbed New Deal legislation, had a well-defined prenatal history extending back several years before it was espoused by the Roosevelt administration. This is true not only of the more conventional fields such as banking, railroads and taxation, but of the newer areas of social security, holding company regulation and securities control. Congressional attention to these new fields had not been absent prior to the time the president made his specific recommendations. The normal process has been fairly uniform: an initial reference by one or a few individuals, then a gradually increasing volume of comment accompanied by numerous specific proposals coming from widely divergent sources. In some cases legislation has resulted in a very short time, but more frequently the initial flurries of interest have subsided, to be revived from time to time until finally culminating, perhaps with the help of the president, in a law.

The long germinative period detectable in the genesis of most laws is of the utmost importance; it constitutes one of the most valuable contributions that a legislative body can make. No other agency in a democracy is so well equipped by composition and organization to discharge this function. The acces-

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sibility of Congress, coupled with its ever-changing personnel, tends to guarantee a maximum of responsiveness to the varied but always moving currents of thought. One cannot examine the official records of a single session of Congress without becoming deeply impressed with the substantial contribution which the individual congressman frequently makes when it comes to locating the weaknesses and gaps in our legislative fabric and initiating action to fill the breach. The piecemeal character of our national legislative program which results from the individualistic nature of the initiation process has frequently been criticized for its lack of unity and coherence. Without arguing the accuracy of this assertion it does seem worth while to emphasize the unusual place the individual senator or representative holds in the sagas of many of our most valued laws. To go no further than the single field of labor legislation, such outstanding examples as those of Shipstead, Norris and La-Guardia in anti-injunction legislation, Wagner in the field of collective bargaining, and Black in the regulation of wages and hours may be cited. These men were the authors as well as the sponsors of the bills and laws bearing their names. Had it not been for their persistent efforts and their unwillingness to give up in the face of administration indifference or hostility, it is probable that, even if the laws would have eventually been passed, their enactment would have been much longer delayed and their content would have been much less definite than they actually are. This is an important factor to bear in mind when attempting to allocate credit between the president and the Congress for legislation that has been passed. It frequently appears that the president is the initiating agent of a particular law when as a matter of fact he is little more than the conveyance—sometimes even the reluctant one—upon which it moves to fruition, and is not entitled to credit for anything more than that.

President Roosevelt's approach to the problem of legislative leadership was more imaginative than that of most of his predecessors. He was not only willing but eager to make suggestions regarding the laws which he deemed necessary. Yet in several notable instances, for example, the National Labor Relations Act and the Selective Service Act, even he demonstrated a

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strange reluctance to request or support legislation that was both necessary and desired. The simple fact is presidential leadership has been and probably will continue to be uneven. Such being the case, the value of congressional initiative, whether as a stimulant or as an irritant, is and will continue to be exceedingly important.

Congress has been criticized for its inability to take a long-range, comprehensive view. Because of its method of selection, Congress is inclined toward localism rather than nationalism. The executive, so it is said, has supplied a more integrated and better balanced point of view. Even if this is the case the atomized nature of the congressional approach to our legislative needs has supplied something without which executive leadership would be less effective.

From the half-thousand individualists who make up the two houses of Congress the annual harvest of legislative proposals continues uninterrupted. That many of these ideas may be impractical is beside the point. The constant replenishment of the supply is the important thing. This inexhaustible flood of observations, suggestions and proposals constitutes a fairly accurate barometer of prospective as well as prevailing pressures. General concern with any particular aspect of our economy is usually preceded by a gradually increasing tide of comment in Congress. From these suggestions come not only the stimulus for positive action but also much of the substance that will eventually become law.

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THE SOVIET UNION AND INTERNATIONAL AGREEMENTS

"... That great, grim, shadowy power which sits brooding over Europe and Asia, and of which no man knows really whether it be strong or weak."

Lord Ripon in his *Journal*, 1854.
L. Wolf, *Life of Lord Ripon*, I, 80.

THE present article makes no claim to present a comprehensive survey of Soviet foreign policy. As indicated by the title, it is primarily concerned with the attitude of the Soviet Union toward international agreements; complete segregation being obviously impossible, however, other factors affecting Soviet foreign relations are brought in only in so far as they bear on the main theme.

Even within these narrow limits the task is not an easy one. Any attempt at a succinct factual appraisal of the Kremlin's observance or nonobservance of international obligations is beset with considerable difficulties.

The Wilsonian principle that "diplomacy shall proceed always frankly and in the public view",[1] although officially accepted by the Allied and Associated Powers, has never been and, perhaps, could not be made effective. There is little official information on some of the crucial phases of international relations between the two World Wars, that is, during the period when the Soviet Union made its appearance on the international stage. For instance, authoritative accounts of the simultaneous negotiations carried on in the summer of 1939 by Moscow with Berlin, on the one hand, and with London and Paris, on the other, are still lacking. The result of these negotiations was the Soviet-German Pact of August 23, 1939, a major factor in bringing about World War II. The situation, in so far as availability of information is concerned, has further deteriorated since the outbreak of hostilities in September 1939. The fate of nations, huge populations and vast territories is decided in

[1] Address of January 8, 1918.

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secret dealings between heads of states or, sometimes, by their personal advisers. Governmental agencies for the distribution of news, including the Office of War Information, were noted for excessive caution in handing out factual data and for zeal in propagating official theories, rather than for accuracy, objectivity and wisdom. Consequently the student of foreign relations has to depend largely on second-hand sources, surmises and guesses.

The paucity of information is particularly striking in the case of Soviet Russia and other totalitarian states. For reasons which lie outside the scope of this discussion the Kremlin has seldom deemed it necessary to take the public (or, so far as can be ascertained, foreign governments) into its confidence. This reticence makes it extremely difficult to interpret with any degree of assurance the international moves of Soviet leaders. Churchill's much quoted dictum (October 1939), "Russian policy is a riddle wrapped in mystery inside an enigma", still holds good. Nevertheless official records supply enough information for a tentative appraisal of the Soviet attitude toward international agreements, provided it is clearly understood that such appraisal has no claim to finality and is subject to revision if and when the veil of secrecy is lifted.

The second and no less formidable obstacle is the large number of international agreements to which the Soviet Union is party. T. A. Taracouzio lists 234 bilateral agreements concluded by the Soviet Union from 1920 to 1937; [2] during the same period the Soviets were party to 57 multilateral international conventions. The number of international instruments signed by the Soviet government after 1937 was considerable, although no comprehensive data are available. Of the 234 bilateral agreements listed by Taracouzio 46 dealt with the legal recognition of the Soviet government and the establishment of diplomatic relations; 31 with neutrality, nonaggression and peaceful settlement of disputes; 57 with economic and financial questions (commercial and customs agreements, protection of industrial property, fishing, and so on); the balance (100 treaties and agreements) dealt with legal problems (consular relations, arbitration

[2] *War and Peace in Soviet Diplomacy* (New York, 1940), pp. 315-342.

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in commercial and civil matters, mutual legal assistance in civil cases), boundaries and kindred questions, postal and telegraphic communications, transportation, and sanitary regulations.

It would be obviously impossible, even if full information were accessible, to examine within this limited space the observance or nonobservance of all international obligations assumed by the Soviet government. The object in view may, perhaps, be best served by analyzing the position of the Kremlin with reference to selected agreements under two main headings: political agreements, and economic agreements.

I. POLITICAL AGREEMENTS

For reasons already stated no attempt will be made to present a perfunctory survey of all political agreements concluded by the Soviet Union. The discussion will be limited to those that appear particularly significant, or may prove useful in untangling the elusive thread of Russian foreign policy and may serve to illustrate the flexible methods of Moscow in dealing with treaty obligations. Political agreements will be considered under six separate headings: (1) agreements with the western border states, formerly parts (in part or *in toto*) of the Russian Empire (Poland, Estonia, Latvia, Lithuania, Finland); (2) agreements with Germany; (3) obligations resulting from membership in the League of Nations; (4) agreement with the United States; (5) agreements with the major members of the anti-German coalition during the war of 1941-1945; and (6) agreement with Iran.

1. *Agreements with the Border States*

Since the three partitions of Poland in the latter part of the eighteenth century the Polish question has been the cause of recurrent conflicts between Russia and the western European countries.[3] Previous to September 1939, relations between

[3] The three partitions were engineered by Catherine II of Russia with the wholehearted collaboration of Prussia and Austria (except for the second partition from which Austria was excluded). They present a striking case of effective coöperation between the Germanic states and Russia in dismembering a Slavic nation and should give pause to those who talk and write glibly of "the secular struggle between Slavs and Teutons."

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Poland and the Soviet Union were regulated by the treaty of Riga (March 18, 1921) which terminated the Soviet-Polish war and traced the Soviet-Polish boundary. The treaty of Riga was supplemented by various agreements of which the most important was the pact of nonaggression dated July 25, 1932; this pact, concluded for five years, was extended on May 5, 1934, for a further period ending December 31, 1945. The validity of the nonaggression pact was reaffirmed in a joint statement issued by Moscow and Warsaw on November 26, 1938. A few months later, on August 23, 1939, the Soviet-German pact was signed, on September 2 German troops invaded Poland, and on September 17 Molotov informed Grzybowski, the Polish ambassador to Moscow, that " the Polish state and its government have, in fact, ceased to exist. Therefore the agreements concluded between the U.S.S.R. and Poland have ceased to operate." On the same day the Red Army crossed the Polish border. Five days later Moscow and Berlin announced their new demarcation line in Poland, but it would seem that friction had developed and the frontier was somewhat revised by agreement between the two invading Powers. By the fourth partition of Poland Russia acquired 76,500 square miles, with a population of 12,800,000. The annexed territories did not form an autonomous unit within the U.S.S.R., but were divided between the Soviet Ukranian and the Soviet White Russian republics. This probably explains why, of the sixteen " constituent " (or " union ") republics of the Soviet Union, Ukraine and White Russia were singled out for the honor of being represented at the San Francisco Conference and in the United Nations Organization. Elections to People's Assemblies in the annexed provinces were held (October 22, 1939) in accordance with the familiar Soviet pattern, the sole candidate in each election district receiving, as usual, over 90 per cent of the votes. Both People's Assemblies immediately petitioned Moscow for incorporation in the U.S.S.R. and for the nationalization of land, banks and large industries. Their requests were granted by the Supreme Soviet of the U.S.S.R. on November 1, 1939.

Soviet-Polish relations entered into a new phase with Germany's attack on Russia. On July 30, 1941, General Sikorski, premier of the Polish government in London, and Maisky, Soviet

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ambassador to Great Britain, concluded an agreement which reëstablished diplomatic relations between the two countries and provided for the formation of a Polish army on Russian soil. "The Government of the U.S.S.R.", says article 1 of the agreement, "recognizes the Soviet-German treaties of 1939 as to territorial changes in Poland as having lost their validity." A declaration of "Friendship, Agreement, and Military Collaboration" was signed by Stalin and Sikorski on December 4, 1941, but the practical results of these friendly gestures proved disappointing. The Polish army had but a minor part in the Russian campaign, and in August 1942 it was decided to withdraw it from Russia. With the turn of military fortunes in favor of the Soviet Union, the Moscow government, it would seem in violation of the spirit of article 1 of the agreement of July 1941, assumed an increasingly intransigent attitude on the question of the Polish frontier. Raymond Daniell, a usually well-informed correspondent, wrote that he knew "at first hand that Russia raised a question of rectification of Poland's eastern frontier as long ago as March 1942."[4] In April 1943 the Kremlin broke relations with the Polish Government in Exile and in July 1944 recognized as the Polish government the Polish Committee of National Liberation, a body sponsored by Moscow. This government gave its full endorsement to the annexation of the eastern Polish provinces by Russia, Poland to be compensated by large slices of Germany. Russian territorial claims on Poland won the approval of Mr. Churchill and, presumably, of President Roosevelt, at Teheran. Speaking in the House of Commons on December 15, 1944, Mr. Churchill declared: "I. . . shall not hesitate to proclaim that the Russians are justly and rightly treated in being granted the claim they make to the eastern frontiers along the Curzon line. . . ." In spite of these concessions to the Soviet Union, which are not easily reconcilable with the declarations of the Atlantic Charter, and in spite of the Yalta Agreement concerning the reorganization of the Polish government, serious friction over Poland developed at San Francisco. Whatever one may think of the merits of the Soviet territorial claims on Poland (and the situation is far too complex to warrant a summary dogmatic state-

[4] *New York Times*, December 18, 1944.

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ment), the conclusion is inescapable that the Soviet Union has repeatedly violated both the spirit and the letter of her treaty obligations toward Poland. It is equally clear that international agreements (Atlantic Charter, Teheran, Yalta, Potsdam), so far as they bear on the Polish question, were given in Moscow an interpretation that was at variance with that accepted in Washington and in London. This conclusion is not invalidated by the fact that the governments of the United States and Great Britain have found it necessary, presumably as a matter of expediency, to make important concessions to the Soviet point of view.

The cases of Estonia, Latvia and Lithuania may be conveniently considered together. After the stormy revolutionary interlude of 1918-1919, Moscow recognized, by peace treaties signed in 1920, the independence and frontiers of the three Baltic states (Estonia, February 2, 1920; Lithuania, July 12, 1920; Latvia, August 11, 1920). The peace treaties were supplemented by agreements of which the most pertinent to this discussion were the nonaggression pacts of 1926 and 1932. The Polish-Lithuanian feud and the seizure of Vilna by Poland in 1920 made the Lithuanian government particularly receptive to Soviet advances. The Soviet-Lithuanian pact of nonaggression was concluded on September 28, 1926, and was renewed on May 6, 1931. It took longer to overcome the scruples of Latvia and Estonia, but the Soviet-Latvian nonaggression treaty was finally signed on February 5, 1932, and the Soviet-Estonian treaty on May 4, 1932. By separate protocols on April 4, 1934, the nonaggression pacts with Lithuania, Latvia and Estonia were extended for ten years. Moreover, the three Baltic states, as well as Poland, were among the signatories of the Litvinov protocol of nonaggression (1929) and of the Litvinov convention defining aggression (1933). These elaborate arrangements, however, did not succeed in removing mutual distrust and suspicion. On June 7, 1939, Latvia and Estonia, in spite of the objections of London and Moscow, signed a pact with Germany. The opposition of the three Baltic states to a "temporary" occupation of their territory by the Red Army is known to have been one of the major obstacles to the successful conclusion of the Anglo-Franco-Russian negotiations in the summer of 1939.

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On September 18, 1939, the day following the invasion of Poland by the Red Army, *Tass* released the ominous announcement (subsequently denied by Estonian authorities) that "according to trustworthy sources Polish submarines have taken refuge, with the connivance of the ruling circles, in naval bases belonging to Baltic states." The foreign ministers of Estonia, Latvia and Lithuania were hurriedly summoned to Moscow and were prevailed upon to sign with the Soviet Union essentially identical pacts of mutual assistance (Estonia, September 28, 1939; Latvia, October 5, 1939; Lithuania, October 10, 1939). The contracting parties undertook "to render each other every assistance, including military assistance, in the event of direct aggression or threat of aggression arising on the part of any European Power" against their frontiers; the Soviet Union was granted the right to maintain military and naval establishments in the territory of the Baltic states; and it was specifically stipulated (article 5, treaty with Estonia) that "the fulfilment of this pact must not affect in any measure the sovereign rights of the contracting parties, in particular their economic systems and state organizations." The treaties of mutual assistance were supplemented by commercial agreements and, in the case of Lithuania, they provided for the transfer to that country of the city of Vilna which, since September 18, had been held by the Red Army. Soviet troops withdrew from Vilna on October 27 when the city was handed over to Lithuanian authorities. The "peaceful" penetration of the Soviet Union into the Baltic states was accompanied by the mass transfer of the *Ostdeutsche* to the Reich.

The defeat of France and the collapse of the western front in May-June 1940 ushered in a new phase of the relations between the Soviet Union and the Baltic states. On June 14, 1940, a Soviet ultimatum was handed to Lithuania accusing her government of violating the pact of mutual assistance. Moscow demanded the formation of a new cabinet and free access to Lithuania for Soviet troops. A reply by 10 A.M. next morning was requested. Similar ultimatums were dispatched to Latvia and Estonia on June 16. The three countries complied at once, occupation of their territories by the Red Army followed, and new governments were duly installed. They included no

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Communists and their programs were liberal and democratic, but their policies were entirely dominated by the Kremlin. The Baltic parliaments were dissolved and elections took place on July 14 and 15. All candidates for election ran on the ticket of the "Union of Toiling People", a Communist-controlled organization, and they were elected by huge majorities, a standard feature of Soviet elections. On July 21 the three Baltic parliaments held special sessions and passed resolutions demanding incorporation in the Soviet Union. The next day, July 22, they decreed the nationalization of land, banks and large commercial enterprises. The Supreme Soviet of the U.S.S.R. met on August 1 and on the same day admitted Lithuania into the Soviet Union; Latvia was admitted on August 5 and Estonia on August 8. The days of Baltic independence were over.

Soviet authorities hold that the absorption of Estonia, Latvia and Lithuania in the U.S.S.R. constituted no violation of international agreements. It is argued that every stage of the process that led to the destruction of the independence of the Baltic states was sanctioned either by their lawful governments or by their "freely" elected popular assemblies. While there is some formal justification for this contention, it has been properly rejected by Washington and, until recently, by London. "The people of the United States", according to a statement of the State Department of July 24, 1940, "are opposed to predatory activities no matter whether they are carried on by the use of force or by the threat of force. They are likewise opposed to any form of intervention on the part of one state, however powerful, in the domestic concerns of any other sovereign state, however weak." The government of the United States has not recognized the annexation of the Baltic states, and their representatives in Washington continue to enjoy diplomatic status.

The case of Finland offers an illustration of Soviet methods in dealing with a border state that has the temerity to refuse compliance with the wishes of Moscow. From the recognition of Finnish independence by the Soviet-Finnish peace treaty of October 14, 1920 to October 1939, relations between the two countries developed normally. On January 21, 1932, the Soviet

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Union and Finland concluded a nonaggression treaty which was extended for ten years by a protocol of April 7, 1934.

On October 5, 1939, that is, in the midst of negotiations with the three Baltic states for pacts of mutual assistance, Molotov requested Finland to send a delegation to Moscow. The delegation left Helsinki five days later and on its arrival in the Soviet capital began negotiations which lasted over a month. The Kremlin demanded a pact of mutual assistance similar to those with the Baltic states; the leasing to the Soviet Union of the port of Hangö; the right to use the port of Lappohja as a Soviet naval base; the cession to the U.S.S.R. of certain islands in the Gulf of Finland, of a portion of the Karelian isthmus, and of sizable territories in northern Finland; and the demolition of fortifications along the Soviet-Finnish border (the "Mannerheim Line"). Finland was offered in exchange certain concessions, including the right to fortify the Aland Islands. Helsinki made counter-proposals but rejected the principal Soviet demands. Foreseeing, perhaps, what was to happen to Estonia, Latvia and Lithuania nine months later, the Finnish government refused to enter into a mutual assistance pact or to grant the Soviet Union military and naval bases within her borders; it was equally firm in declining to lease Hangö and to dismantle the Mannerheim Line. The negotiations broke down and on November 13 the Finnish delegation left Moscow.

On November 26 the Soviet government sent to Helsinki a note in which it charged that Soviet troops had been fired upon by Finnish artillery. Although the accusation was denied by the Finns, Moscow rejected the Finnish proposal for a mixed "Frontier Commission of Inquiry", and on November 28 announced that the U.S.S.R. considered itself released from all obligations under its nonaggression pact with Finland. Next morning Helsinki was bombed by the Soviet air force and Soviet troops crossed the Finnish border. Simultaneously a Finnish People's Government, presided over by Otto Kuusinen, a Finnish Communist long a resident in Russia and a former secretary of the Third International, was formed in the Finnish summer resort of Terijoki, near the Russian border. On December 1 the Praesidium of the Supreme Soviet of the U.S.S.R. recognized

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the Kuusinen government as Finland's legitimate government which has "overthrown the Helsinki clique".[5]

The subsequent course of Soviet-Finnish relations need not be discussed here. It will suffice to recall that the Soviet attack on Finland (even though in Soviet theory there was no Soviet-Finnish war since the Kuusinen government was on palpably friendly terms with Moscow) provoked deep indignation throughout the world, led to the expulsion of the Soviet Union from the League of Nations, and brought Great Britain and France to the verge of war with the U.S.S.R.

2. *Soviet-German Agreements, 1939-1941*

The time for writing the history of the Soviet-German agreements of 1939 has not yet arrived but in view of their importance they cannot be passed over in silence in this discussion. No attempt will be made here to speculate on the motives and objectives of the Kremlin in signing a nonaggression pact with Hitler and the discussion will be limited to the narrower question of whether the Soviet government intended to fulfill the obligations it had assumed toward the Reich. The Soviet-German nonaggression pact of August 23, 1939, differed in two respects from the other nonaggression pacts concluded by the Soviet Union: (1) it became effective at once, that is, without awaiting ratification; and (2) it omitted the customary provision that "if one of the contracting parties should commit an act of aggression against a third party the other contracting party would be entitled to denounce the pact."[6]

On August 19, four days before the signature of the nonaggression pact, Germany and the Soviet Union concluded a commercial agreement the text of which was never published; this was superseded by a commercial agreement of February 11, 1940, which was supplemented by a third agreement on January 10, 1941. The volume of goods the Soviet Union undertook to export to Germany is believed to have been increased by each subsequent agreement. According to a statement from Berlin published in the *New York Times* on June 23, 1941, Von

[5] David Dallin, *Soviet Russia's Foreign Policy, 1939-1942* (New Haven, 1942), p. 133.

[6] *Ibid.*, pp. 55-56.

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Ribbentrop "made it known that these deliveries [under the Soviet-German agreements] were carried out by the Soviet according to schedule until the last day before the rupture."

There were other agreements between Moscow and Berlin, those dealing with Poland, the Baltic states, Finland, Bessarabia, the Balkans and the Near East, but their contents were only partly revealed in statements made by Hitler and Von Ribbentrop on June 22, 1941, the day when Germany invaded Russia. These statements, of course, have no claim to objectivity and the charges of breach of faith they preferred have been denied in Moscow. It is extremely likely, nevertheless, that the German accusations contained a large element of truth and that the division of the spoil between Germany and the Soviet Union was anything but frictionless. This conflict of interests and policies, however, was inherent in the facts of the case and there is nothing to prove that it could not have been amicably settled.

The question which is of primary concern here is whether the Soviet Union has lived up to its obligations under the nonaggression pact of August 23. There is much evidence to show that the Kremlin had little confidence in Hitler's assurances of friendship and that the Soviet Union was preparing for war. It would be, indeed, surprising if the Soviet leaders had remained blind to the possibility of an armed conflict with Germany; military preparations, however, are not in themselves conclusive proof that Moscow intended to break its nonaggression pact with the Reich as has been claimed by the Germans. Hitler, indeed, declared on June 22, 1941, that "Moscow not only broke but miserably betrayed the stipulations of our friendly agreement." Molotov, however, held on the same day that

> the attack on our country was perpetrated despite the fact that a treaty of non-aggression has been signed between the U.S.S.R. and Germany and that the Soviet Government most faithfully abided by all provisions of this treaty. During the entire period of the operation of this treaty the German Government could not find ground for a single complaint against the U.S.S.R. as regards observance of this treaty.

The Soviet contention is upheld by the British government. "On June 22, 1941," Mr. Churchill said in his broadcast of

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May 13, 1945, "Hitler. . . treacherously, without warning, without the slightest provocation, hurled himself on Russia. . . ."

Official pronouncements by political leaders, totalitarian or democratic, do not necessarily express the speakers' opinion and should be used with great caution. Nevertheless the provisional conclusion (until full information is made available) would seem to be that Moscow faithfully carried out the provisions of its treaty with Germany. What would have happened to the cause of the Allies and what would have been the policy of the Kremlin if Hitler had not attacked the Soviet Union in June 1941 is necessarily a matter for surmise.

3. *The U.S.S.R. and the League of Nations*

The attitude of the Soviet Union toward the League of Nations offers a good example of that dualism which is inherent in the position of the U.S.S.R. as the leader of the international revolutionary proletariat, on the one hand, and as a great national and in recent years strongly nationalistic Power, on the other. The 1919 program of the Communist Party of the U.S.S.R. describes the League of Nations as an "international organization of the capitalists for the systematic exploitation of all peoples of the earth and whose immediate efforts are directed to the suppression of revolutionary movements in every country." The 1919 program is still the charter of Soviet communism, although its revision was entrusted to a special commission appointed by the eighteenth congress of the Party on March 20, 1939. The work of the commission has not been completed at the time of this writing (January 1946) presumably because of World War II.

In spite of the above ungenerous characterization of the Geneva institution, the Soviet Union joined the League of Nations on September 18, 1934. During the following five years Maxim Litvinov, the Soviet representative at Geneva, was one of the League's most loquacious if not necessarily most heeded spokesmen.

Coöperation between Moscow and the League came to an abrupt end with the Soviet invasion of Finland. The Finnish government demanded the immediate convocation of a special session of the League Assembly to discuss Soviet aggression, a

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request with which M. Avenol, the Secretary General of the League, had no choice but to comply. He was curtly informed by Molotov, however, that Russia would take no part in the proceedings. "The Soviet Union is not at war with Finland and does not threaten the Finnish people", Molotov telegraphed to Avenol on December 4. "The Soviet Union maintains peaceful relations with the Democratic Republic of Finland. The people in whose name Holsti [the Finnish representative at Geneva] appeals to the League are not the representatives of the people of Finland." [7] The League Assembly nevertheless met on December 11 and appointed a commission of thirteen members to study the Finnish charges. The resolution drafted by the commission, and approved without a dissenting vote by the Assembly on December 14, declared that "the League of Nations solemnly condemns the action taken by the U.S.S.R. against Finland and appeals to every member of the League to extend to Finland all material and humanitarian aid, each according to his ability." On the same day the Council of the League, acting on the recommendation of the Assembly, announced that "by its own action the Soviet Union has expelled itself from the League of Nations."

This unprecedented action was practically forced upon the League by Moscow's intransigent attitude but the unanimity among the League members was more apparent than real. As Stephane Lauzanne put it in *Le Matin* [8], "the courage of the neutrals is inversely proportional to their distance from the lair of the beast." The South American countries, led by Argentina, were among the most outspoken advocates of expulsion. Two of the Soviet neighbors, Afghanistan and Iran, however, were not represented in the Assembly, and, although no voice was raised at Geneva in defense of the Soviet invasion of Finland, a number of delegates felt that the proposed penalty was inexpedient or too harsh. Eleven countries, while not voting against

[7] It may be noted that the Soviet-Finnish peace treaty of March 12, 1940, was concluded between the U.S.S.R. and the Helsinki government which the Kremlin had only recently repudiated. Molotov announced in the Supreme Soviet of the U.S.S.R. on March 29, 1940, that peace negotiations with Finland were opened with the approval of the Kuusinen government which "dissolved itself" after the treaty was signed.

[8] Quoted in Dallin, *op. cit.*, p. 150.

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the resolution, made various reservations (Mexico, Switzerland, the Netherlands, Belgium, Sweden, Norway, Latvia, Estonia, Lithuania, China and Bulgaria). Helsinki, believing that the retention by the U.S.S.R. of her membership in the League might eventually serve the Finnish cause, instructed its delegation " not to agitate for the expulsion of the Soviet Union ".[9] There was a general uneasy feeling among the delegates that the League action was futile so far as Finland was concerned and was likely to prove highly embarrassing in the future. Expedient or not, the condemnation of the Soviet Union by the League accurately reflected the overwhelming contemporary opinion regarding the U.S.S.R. as a member of the international community.

4. *Agreement with the United States, 1933*

The long overdue *de jure* recognition of the Soviet government by the United States throws some light on the much discussed question of the position of the Kremlin as an agency for the advancement of world revolution. Diplomatic relations with the Soviet Union were established by Germany in 1922 and by other major European Powers—Great Britain, France and Italy—in 1924. It was only a decade later that Washington made up its mind to take official cognizance of the existence of the Soviet régime. A letter from Maxim Litvinov, then People's Commissar for Foreign Affairs, to President Roosevelt, dated November 16, 1933, and included in the official collection of documents bearing on the establishment of diplomatic relations between this country and the Soviets, contains the following statement:

> I have the honor to inform you that. . . it will be the fixed policy of the Government of the Union of Soviet Socialist Republics: . . . not to permit the formation or residence on its territory of any organization or group—and to prevent the activity on its territory of any organization or group, or of representatives or officials of any organization or group—which has as an aim the overthrow or the preparation for the overthrow of, or the bringing about by force of a change in, the political or social order of the whole or any part of the United States, its territories or possessions.

[9] *New York Times*, December 15, 1939.

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The above statement clearly referred to the Third (or Communist) International, a world-wide alliance of Communist parties established in Moscow in 1919. Its charter provided that "The Communist International has for its purpose the struggle by all available means, including armed force, for the overthrow of the international bourgeoisie and the creation of an international Soviet Republic as a transition stage to the complete abolition of the State." A manifesto issued by the second congress of the International (1920) amplified the above statement by adding that "the international proletariat will not lay down its sword until Soviet Russia has become a link in the federation of the Soviet republics of the world." It is self-evident that the existence on Russian soil of an organization such as the Third International was incompatible with Litvinov's pledge. Yet the International held its seventh congress in Moscow in 1935 and was not dissolved until May 1943. The State Department showed sound judgment in not insisting on the fulfilment by the Soviets of a promise obviously incompatible with the Communist doctrine and inserted in the agreement, presumably, in order to pacify a section of American public opinion. It is nevertheless a part of the record that even formal compliance with Litvinov's pledge was not forthcoming for ten years.[10]

[10] The dissolution of the Third International was, of course, in no sense a repudiation of world revolution. The resolution of the Praesidium of the Executive Committee of the Communist International of May 22, 1943, said in part: "The whole development of events in the last quarter of a century and the experience accumulated by the Communist International convincingly showed that the organizational form of uniting workers, chosen by the first congress of the Communist International, answered conditions of the first stages of the working-class movement, but it has been outgrown by the growth of this movement and by the complications of its problems in separate countries and has even become a drag on the further strengthening of the national working-class parties .... Guided by the judgment of the founders of Marxism and Leninism, Communists have never been supporters of the conservation of organizational forms that have outlived themselves. They have always subordinated forms of organization of the working-class movement, and methods of working of such organization, to the fundamental political interests of the working-class movement as a whole, to the peculiarities in the concrete historical situation and to problems immediately resulting from this situation.... The Communist International, as the directing center of the international working-class movement, is to be dissolved, thus freeing the sections of the Communist International from the obligations arising from the statutes and resolutions of the congresses of the Communist International...."

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5. *Wartime Agreements with the United States and Great Britain*

Little that is useful can be said at this time concerning the observance or nonobservance by the Soviet Union of her wartime agreements with the United States and Great Britain. The jejune releases of the Office of War Information and the muffled and diluted reports from other sources that have succeeded in reaching the public in spite of censorship suggest a wide divergency in the interpretation of agreements allegedly reached between Moscow, on the one hand, and Washington and London, on the other. Some of the most striking examples of such divergencies must be noted here for the sake of the record. The composition of the Polish government is, of course, the stock example. The complexion of the governments of Rumania, Bulgaria, Greece and Austria has been the source of much friction between the Kremlin and the western allies. Yugoslavia and Trieste are other storm points, Marshal Tito acting presumably in close coöperation with Moscow. Serious divergency of views was reported in the setting up of the Allied administration which is to rule Germany. The San Francisco Conference was disturbed and delayed by Soviet interpretations of the Dumbarton Oaks agreements which came as a surprise to the American and the British delegates. The latter difficulties were solved, much perhaps to the detriment of the United Nations Organization, chiefly (though not exclusively) by concessions to the Soviet point of view. The demands made by the Kremlin on Turkey appear to be at variance with the aims of the Atlantic Charter (which the Soviets signed on January 1, 1942) and are likely to cause new complications. The London Conference of the Foreign Ministers in September 1945 was a failure; and that of Moscow in December, official statements to the contrary notwithstanding, accomplished little to bridge the gap between the Soviets, on the one hand, and England and the United States, on the other. The first session of the United Nations Organization, held in London as these lines are being written, is marked by sharp conflicts among the Big Three, some of them bearing on questions ostensibly settled by earlier agreements.

The consensus of American and British opinion, guarded and

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inarticulate as it is in order not unduly to offend Soviet susceptibilities, would seem to be that Moscow has more than once violated both the letter and the spirit of its agreements with the other members of the anti-German coalition. A moment's reflection, however, suggests that all such allegations, even though they probably contain a large element of truth, have little factual basis and rest, indeed, on a flimsy foundation. The most weighty decisions of recent months were reached in secret conclaves held by Roosevelt, Churchill (later Truman and Attlee) and Stalin, and were supplemented by equally secret conversations of high officials of the three countries or sometimes, in the case of the United States, in conversations between Soviet officials and personal representatives of the President not subject to public control. The official communiqués dealing with Teheran, Yalta, Potsdam and Moscow raise more questions than they answer. Even if, as seems likely, other agreements not yet available to the public were signed by the heads of the three governments, they are inevitably interpreted in the light of private conversations the nature of which will probably never be fully known and which each party legitimately regards as authoritative. The danger of misunderstanding inherent in such personal diplomacy hardly needs elaboration. Two persons seldom give an identical account of the same conversation. The time the heads of states or their representatives spend together is usually far too short to deal thoroughly with the vast problems under discussion. There is the language barrier and the wide margin of error involved in the use of interpreters. The desire to reach an agreement is great and the Anglo-American negotiators are subject to the relentless pressure of a highly emotional public opinion. It is arguable, therefore, that Soviet leaders may sincerely believe that their actions, which shock democratic opinion, are fully consonant with pledges given to them privately or even in the course of official negotiations.

The only remedy that can be suggested is the speedy revocation of the extraordinary powers granted to the Executive during the war and the vigorous reassertion by Congress, especially by the Senate, and by the British Parliament of whatever degree of effective control over foreign affairs they are entitled

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to under respective constitutional arrangements. For the present state of chaos in international relations the Soviet Union is not alone to bear the responsibility.

6. *Agreement with Iran*

The case of Iran, the land of oil and traditionally a bone of contention between Russia and England, calls for special comment. In August 1941 Great Britain and the Soviet Union invaded Iran, this time as allies.[11] The resistance of the Iranians was overcome within a few days, Reza Shah Pahlevi was exiled, and a government amenable to the wishes of the occupying Powers was installed in Teheran. Iran was divided into two zones of occupation, Great Britain assuming control of the south, and the Soviet Union of the north, including the province of Azerbaijan. The justification for this high-handed action was the necessity of purging Iran of German influence and of providing a land route by which Lend-Lease supplies could be forwarded to the U.S.S.R. By the Anglo-Soviet-Iranian treaty of January 29, 1942, Great Britain and the Soviet Union undertook " to respect the territorial integrity, sovereignty and political independence of Iran "; declared that the presence of their forces on Iranian territory " does not constitute military occupation and will disturb as little as possible "—a dangerously flexible reservation—" the administration and the security forces of Iran "; and promised to withdraw their troops " not later than six months after all hostilities between the Allied Powers and Germany and her associates have been suspended by the conclusion of an armistice. . . or. . . peace, whichever date is the earlier." In the declaration of Teheran of December 1, 1943, Roosevelt, Churchill and Stalin affirmed " their desire for the maintenance of the independence, sovereignty and territorial integrity of Iran " and invited that country to participate in the " establishment of international peace, security and prosperity after the war, in accordance with the principles of the Atlantic Charter."

In September 1944 S. I. Kavtaradze, Soviet Vice-Commissar for Foreign Affairs, arrived in Teheran. Kavtaradze is a native

[11] The earlier history of the Soviet-Iranian relations has no direct bearing on the current dispute and need not be considered here.

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of Georgia, born perhaps in the shadow of Mount Ararat, and his name, according to reliable informants, means both in Georgian and Persian "son of a pigeon". What he brought with him from Moscow, however, was not an olive branch but a request for extensive oil concessions in Azerbaijan. The Iranian government refused on the ground that it was its fixed policy, approved by the Iranian parliament and also by the United States and Great Britain, not to grant concessions until all foreign troops were withdrawn. By an exchange of letters between the Soviet and the British governments, which was brought to the attention of the London conference in September 1945 and met with no objection, it was agreed that Soviet and British troops would be withdrawn by March 2, 1946. In the meantime the "iron curtain", a common feature of Soviet occupation, was drawn around the northern provinces of Iran. On November 18, 1945 the long-rumored uprising in Azerbaijan broke out. According to official Iranian sources it was engineered by the Russians and was led by the Russian-sponsored "Democratic" (or Tudeh) Party. The Red Army prevented the Iranian troops from proceeding north, an autonomous régime was formed in Azerbaijan, and the repeated attempts of the Teheran government to negotiate with the Soviets met with no response.

London and Washington sent guarded protests to Moscow. Mr. Byrnes, in a note of November 24, expressed his "entire confidence" that the Kremlin was "zealous. . . meticulously to abide" by the assurance of the Teheran declaration; suggested that the reported interference with the movement of Iranian troops might have been ordered by a local commander "acting without the sanction of the Soviet government"; and proposed the recall of all troops from Iran by January 1, 1946. In a sharply worded reply of November 29 Molotov contended that the State Department was misinformed; that disturbances in the Soviet zone "have been caused by reactionary elements which have opposed the extension of national rights to the population of northern Iran, though there was nothing in these desires. . . which is unusual for a democratic state"; that Iranian troops were stopped because their advance would have caused, "not the cessation, but the increase of disorders, and likewise bloodshed";

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that the Soviet government "adheres unwaveringly" to the Teheran declaration; and that no reason exists for altering the agreed date for the withdrawal of foreign garrisons. If, as was generally expected, the Iranian question was discussed at the Moscow conference, this did not appear in the communiqué. On January 19, 1946 the Teheran government made a desperate appeal to the United Nations Organization and three days later was forced to resign.

Soviet policy in Iran is rightly causing deep uneasiness and apprehension in many quarters. Yet it would be difficult to establish a formal violation of the tripartite treaty.[12] It is argued that the Azerbaijan autonomous régime is a mere Soviet puppet. This contention, plausible as it is, is of course not countenanced in Moscow and under the existing conditions is not susceptible of definite proof. This being the case, the subjugation of Azerbaijan, or even Iran as a whole, could be attained without violating the letter of the 1942 treaty or the declaration of Teheran. A Moscow-controlled "democratic" régime in Tabriz or Teheran, firmly entrenched during the occupation, would allow the withdrawal of the Red Army according to schedule without impairing in any way Soviet domination. Such a régime, with the discreet support of the Soviets across the border, could with complete propriety either continue a quasi-independent existence or "freely" vote itself into the Soviet Union, whatever course is deemed expedient in Moscow. The experience of the Baltic states is instructive.

It is an uncomfortable thought that the Soviets, in setting up in Azerbaijan a government to suit their own purposes, were following the precedent of 1941. The inauspicious conditions

[12] The reference made by A. Vishinsky (in his statement to the President of the Security Council of January 25, 1946) to the Soviet-Iranian treaty of February 26, 1921, is clearly irrelevant to the present situation. The Iranian delegation rightly pointed out in its reply (January 26) that the treaty of 1921 "is only meant to apply to the case when Iran is occupied by a hostile power and by reason of this fact becomes a base of aggression against the U.S.S.R., and in that event only if the Iranian government could not eliminate this danger by its own action, is Russian intervention allowed." The statement of the Iranian delegation is an extremely able document which sheds much light on the methods of Soviet diplomacy. In the writer's opinion, however, it does not prove that the Soviet government has violated the *letter* of the 1942 treaty, whatever one may think of the other aspects of the case.

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under which the Allies occupied Iran, aided and abetted by the studied vagueness of the phraseology of the 1942 treaty, offer practically unlimited opportunities for predatory activities to which the present chaotic state of the world so eminently lends itself. To dismiss the whole matter as just another move in the old game of "power politics" is patent and lamentable, albeit common, self-delusion. Soviet domination, unlike that of the capitalist Powers, means not only the imposition (openly or in disguise) of foreign rule but also the forcible introduction of totalitarian administrative and police methods and communist economics which affect intimately the lives of every man and woman in the territories concerned, and, especially in the case of Iran, the vital interests of other countries as well.[13]

II. ECONOMIC AGREEMENTS

The economic agreements of the Soviet Union, complex and controversial as they often are, lend themselves to a more summary treatment than those dealing with political issues. The reason for this situation is not far to seek. The U.S.S.R., in spite of her size, vast population, reputed wealth of natural resources, and the much advertised achievements of planned economy, has played so far a surprisingly small part in international economic intercourse. Poverty, backwardness and low standards of living—the claims to the contrary of Soviet admirers notwithstanding—are some of the basic causes of this unhappy state of affairs. In spite of the emphasis put by Moscow in the late 1920's on the strengthening of economic ties with the capitalist world, Soviet foreign trade has never reached even the modest level of that of Imperial Russia and has dwindled into insignificance since 1929-1930. Foreign conces-

[13] The place Azerbaijan occupies today in the Iranian scene is aptly suggested by Harold Nicolson. Nicolson's teacher of geography used the unconventional method of comparing the shapes of countries with those of familiar objects. "He contended that the shape of Persia was identical with the shape of a cat seated in front of the fender with pricked ears. There she sat, with one ear stretched towards Erivan and the other towards Baku, contemplating with apparent placidity the ashes of the past and the flames of the future; and the lake of Urumieh, in his diagram, represented a central, misplaced polyphemic eye. . . .I must confess. . . that the comparison was not inexact; and I recognize with disquiet today that the head of the Persian cat, the place where she keeps her brain, is identical with the province of Azerbaijan." *The Spectator*, London, December 7, 1945, p. 538.

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sions, welcomed by the Kremlin in the opening years of the Soviet régime, have been discouraged. Communist economy offers no opportunity for foreign investments. The currency situation is confused and the value of the ruble uncertain. The Soviet state monopoly of foreign trade is not easily reconcilable with the accepted trading methods of the capitalist countries, and planned economy, so far as one can judge by past experience, is inimical to foreign trade.[14] Moreover, article 11 of the Soviet Constitution of 1936 lists the strengthening of the independence of the U.S.S.R. (that is, economic self-sufficiency) among the three main objectives of Soviet planning. Little wonder that the U.S.S.R. has had but a minor part in international economic intercourse. This does not mean, of course, that the possibility of a revision of Soviet policies and a closer integration of the Soviet Union in the world economy is precluded; this discussion, however, deals with the past, not with the future.

The question of observance or nonobservance by the Soviet Union of her economic agreements may be conveniently considered under three headings: (1) pre-revolutionary obligations, (2) commercial agreements, and (3) obligations toward private firms.

1. *Pre-Revolutionary Obligations*

The long drawn-out controversy over Russia's pre-revolutionary obligations was the consequence of the annulment by Moscow (Decree of January 21, 1918) of all domestic and foreign loans issued by its predecessors, that is, the Imperial and the Provisional (March-November 1917) Governments, and of the nationalization or confiscation of industrial, commerial, banking and other forms of private property held by foreign corporations and nationals. Germany alone accepted without much

[14] The average annual Russian exports in 1909-1913 were 1,501 million rubles. In 1927-1928, the opening year of the first Five Year Plan, Soviet exports were valued at 791 million rubles; in 1930 they reached 1,036 million rubles, the highest point under the Soviet rule; in 1932 they toppled down to 575 million rubles and declined still further in the following years. According to the first Five Year Plan exports were to increase two and a half times between 1928 and 1932. As the figures just quoted indicate, the world-wide depression made a clear sweep of these fanciful proposals. Significantly enough, the second and, so far as it is known, the third Five Year Plan (its full text was never published) make no provision for foreign trade.

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protest the Soviet decision, but Russia's other European creditors made futile attempts to induce the Moscow government to make some settlement. Concrete proposals with this object in view were made at conferences held by the European Powers in 1922 at Cannes, Genoa and The Hague. The Soviet position was formulated with particular clarity in a lengthy reply dated May 11, 1922, to a memorandum prepared by the Genoa conference. Quoting historical precedents, the Soviet delegation held that " governments and systems that spring from revolution are not bound to respect the obligations of fallen governments. . . . Russia cannot be obligated to assume any responsibility whatever toward foreign Powers and their nationals for the cancellation of public debts and for the nationalization of private property." Moscow, however, was ready " to accept liability for the payment of public debts, provided that the damages caused to Russia by Allied intervention and the blockade be recognized. In law, the Russian counterclaims are infinitely more justified than the claims of the foreign powers and their nationals." The above concession did not extend to " the war debts which, having a specific origin, were extinguished by the very fact that Russia, having withdrawn from the war without participating in the division of its advantages, could not assume its costs. . . ." The Soviet government, moreover, " declared itself prepared to renounce conditionally its counterclaims, and to accept the engagements of the former governments, in exchange for a number of concessions on the part of the Powers, the most important being real credits placed at the disposal of the Russian Government. . . ." Since the credits were not forthcoming, the 1922 negotiations came to naught. Subsequent attempts by the European creditors to reach a settlement were equally barren of results and the matter was finally allowed to go by default.

Russian pre-revolutionary obligations loomed large in Soviet-American relations. " Our Government does not propose. . . to enter into relations with another régime which refuses to recognize the sanctity of international obligations ", President Coolidge wrote in his message to Congress on December 9, 1923. " I do not propose to barter away, for the privilege of trade, any of the cherished rights of humanity." The question of

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pre-revolutionary obligations appeared to be nearing a solution with the recognition of the Soviet government by the United States. Litvinov wrote to President Roosevelt on November 16, 1933:

> The Government of the Union of Soviet Socialist Republics agrees that it will waive any and all claims of whatever character arising out of the activities of the military forces of the United States in Siberia, or assistance to military forces in Siberia subsequent to January 1, 1918, and that such claims shall be regarded as finally settled and disposed of by this agreement.

On the same day the President and Litvinov issued the following joint statement:

> In addition to the agreements which we have signed today, there has taken place an exchange of views with regard to methods of settling all outstanding questions of indebtedness and claims that permits us to hope for a speedy and satisfactory solution of these questions which both our Governments desire to have out of the way as soon as possible.

This facile optimism, so characteristic of the New Deal approach to Russian problems, was doomed to disappointment. Conversations with the Russians dragged on for over a year. On February 1, 1935, Secretary Hull announced that "there seems to be scarcely any reason to doubt that the negotiations which seemed so promising at the start must now be regarded as having come to an end." They were never resumed.

The full history of these negotiations is still to be told. It is believed that the passing of the Johnson Act was in part responsible for preventing a settlement of American private claims. As to the war debts, they were eventually repudiated by every nation, except Finland. Soviet attitude on this question, compared with that of other countries, has at least the virtue of greater consistency.

2. *Commercial Agreements*

The history of Soviet commercial agreements, so far as it can be pieced together from avowedly incomplete information, is

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essentially similar to that of any other country. Granting the special problems inherent in the relationship between free markets and a state monopoly of foreign trade, Soviet trading methods appear to be unobjectionable. Moscow, after concluding a commercial treaty, has usually carried it out as well as could be reasonably expected. Von Ribbentrop, in a statement already quoted, held that Soviet deliveries to Germany under wartime agreements were made " according to schedule ". Instances may be quoted of Soviet commercial treaties being used for political purposes (for example, the 1939 agreement with the Baltic states which proved to be a prelude to annexation) but this is not an unusual practice. Charges of Soviet " dumping ", so prominent about 1930, were probably unwarranted. Canadian insistence on allegedly unfair Soviet trade practices (Canadian delegates presented this point of view with considerable force at the Imperial Economic Conference in Ottawa in 1932) nevertheless forced the British government to denounce its commercial treaty with Moscow. The new Anglo-Soviet agreement, concluded in February 1934, endeavored to regulate the balance of payments between the two countries. It provided that " the payments of the U.S.S.R. in the United Kingdom. . . shall bear to the proceeds of the U.S.S.R. in the United Kingdom " a proportion which gradually rose from 1:1.7 in 1934 to 1:1.2 in 1937. " Thereafter the approximate balance of payments measured by the ratio 1:1.1 shall be maintained." In the opinion of a distinguished British authority, Dr. Frederic Benham, this arrangement did not work too well in practice.

> It is doubtful whether the agreed balance of payments was reached. For example, in 1937 gross imports from the Soviet Union were £29.1 million, domestic exports £3.1 million, and re-exports £16.4 million. In any event, British exporters complain that Russia has not kept the spirit of the agreement, for most of her purchases have been purchases of imported copper, tin, rubber, nickel, lead, and other goods not produced in Great Britain. At the outbreak of the war in 1939 Russia owed several million pounds on credits guaranteed by the Export Credit Department.[15]

[15] Frederic Benham, *Great Britain under Protection* (New York, 1940), p. 133.

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Bilateral trade agreements, however, have never worked satisfactorily and have invariably led to mutual recriminations by the contracting parties. The complaints of British exporters and the inability to balance Anglo-Soviet trade are an indictment of bilateral trade, as such, rather than a serious reflection on the methods of the Soviet Commissariat of Foreign Trade.

The first commercial agreement between the Soviet Union and the United States was signed in 1935 for one year and has been renewed annually since. The agreement imposed on the Soviet Union the obligation to make annual purchases in this country to the amount of $30 million, a far cry from the half-a-billion "immediate orders" which, according to Washington's official spokesmen, were to follow the *de jure* recognition of the U.S.S.R. In 1937 the amount of Soviet obligatory purchases in the United States was increased to $40 million. This undertaking, and all other obligations assumed by the Soviet Union under her commercial agreements with the United States, were invariably and punctually met. The state monopoly of foreign trade offers the Kremlin a powerful weapon for exercising political pressure by shifting Soviet orders from one country to another, but this is a subject that lies outside the scope of this discussion. In the field of commercial agreements the Soviet record is not different from those of other countries.

3. *Obligations Toward Private Firms*

There is a consensus of opinion that in its dealings with private foreign firms the Soviet government, in spite of considerable difficulties in obtaining credits, has invariably maintained the highest standards. Mr. E. C. Ropes, Chief of the Russian Unit, Bureau of Foreign and Domestic Commerce, writes:

> On all orders placed by the Amtorg since 1935, payments have been specified in cash, or not more than forty-five days after shipment. In case of orders requiring fabrication, the sellers often insisted on progress payments and received them. The record of the Amtorg for meeting its obligations has not been impaired; all bills have been paid on or before the due date.[16]

[16] *The Russian Review*, vol. III, No. 1, Autumn 1943, p. 94.

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According to a private letter from an exceptionally well-informed observer,

> All of the manufacturers who have called upon us have always stated that once a contract is actually signed, the Soviet Government performs it, but that everything in the way of negotiations prior to the actual signing of a contract is considered as preliminary and the Soviet Government does not feel it is bound by these preliminary discussions.

Another equally well-qualified correspondent writes:

> There is. . . voluminous literature on the credits extended to the U.S.S.R. by various countries, which all agree that all debts were met accurately. Part of the record in the 30's is the necessity for paying in goods, the value of which had declined some 40 per cent since the debt was assumed, a bill which was due four or five years later. There is one instance, I believe, of an obligation in Sweden in which postponement of payment for a few days was requested and granted. Otherwise the history of paying on the nail was maintained. . . . I believe you can cover the financial or trade angle by merely stating that they have always kept their promises.

These authoritative statements call for no further comments.

III. CONCLUSIONS

This necessarily cursory and selective survey offers, perhaps, a formal justification for the two following conclusions:

1. The record of the Soviet Union in observing her political agreements with foreign countries, although not uniformly unsatisfactory (agreement with Germany, 1939), is nevertheless distinctly not blameless. The violation of international agreements, direct (Poland, Finland, the League of Nations) or indirect (the Baltic states), was due either to the desire for territorial aggrandizement (whatever might be its theoretical and practical justification) or to ideological considerations resulting from the position of the Soviet Union as a revolutionary Power (Litvinov's pledge to the United States).

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2. The observance by the Soviet Union of her economic commitments is on the whole satisfactory and offers little ground for legitimate suspicion and complaint.

Both these conclusions, however, need further qualification. To begin with, international morality, although extolled *ad nauseam* in official pronouncements, has no accepted standards and conveys no precise meaning. What is regarded as "moral" today may be branded as a gross "immorality" tomorrow. Until recently the United States was the great exponent of neutrality, yet during the recent war neutrality was denounced by America's authoritative spokesmen as akin to treason, and great pressure was brought to bear on neutral countries to make them join the ranks of the Allies. What at any particular moment is considered "moral" in Washington may appear in an entirely different light in London or Paris, to say nothing of Moscow, Berlin, Rome and Tokyo. The acrimonious dispute over the war debts and their wholesale repudiation offers a good illustration of this point. Students of diplomatic history will probably agree that international treaties are more honored in the breach than in the observance. A close scrutiny of the historical record of any great Power is likely to disclose unsavory instances of violation of agreements that would stand comparison with the least palatable portions of the Soviet record, even though the treatment of the border states by Moscow was particularly ruthless. International agreements are clearly subservient to what are believed to be the exigencies of the moment and are violated or misinterpreted when this is deemed expedient. The Soviet policy in this respect does not differ from that of other Powers, except perhaps in degree and in crudeness. Recent developments, moreover, tend to suggest that the violation of international obligations does not necessarily have lasting ill-effects. The Lend-Lease Act put at the disposal of nations in default on their war debts American resources on a scale undreamed of twenty-five years ago; and Finland, the only country that regularly paid her war debts, had the bitter experience of seeing her cities and villages destroyed by bombers and guns lend-leased to a state that had consistently repudiated its war obligations. This lesson is not likely to be forgotten.

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The encouraging record of the Soviet Union in dealing with her commercial obligations offers no sure guide for the future. The past failures of countries to meet commitments incurred in the normal course of trade were, in the writer's opinion, uniformly due, not to deliberate default, but to the inability to make payments. Soviet foreign trade has been conducted thus far on an exceptionally modest scale. Its rapid and drastic expansion, as envisaged by some officially inspired prognostications, is likely to create an entirely new situation and to confront the Kremlin with novel problems the solution of which might well prove beyond its control.

International agreements, in the last analysis, are but instruments of national policy. What the policy of the Kremlin will be in the future, no one, not even Stalin, can foresee today.

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III. EVOLUTION OF EQUALITY OF STATES IN THE INTER-AMERICAN SYSTEM *

THE Pan American Union, as an association of free nations, is not a new idea. It was suggested in the plans of many liberators; but to Simon Bolivar goes the credit for giving substance to the idea, when he succeeded in gathering the newly freed republics of Latin America in a conference held at Panama in 1826. At this conference the republics of Colombia, Peru, Mexico and Central America signed a Treaty of Union and Perpetual Confederation. Unfortunately, this treaty was never ratified by the countries concerned; however, it established the principles and rules which were later applied to the various Latin American congresses. During the years 1826-1889 several regional conferences were held in Latin America for the purpose of achieving a political union. These failed in their efforts to create a confederation; but they were not altogether useless, for they established certain regulations in commerce, in the protection of trade marks, and in the codification of international law.

The Inter-American System, as it stands today, however, was born at the First International Conference of American States which was held, under the chairmanship of Secretary of State James G. Blaine, at Washington in 1889. Mr. Blaine called for an economic *zollverein* of American states and a system of automatic arbitration for the peaceful settlement of disputes. His far-reaching and ambitious aims were not met, but an important step was taken when the Commercial Bureau of the American Republics was created.

At first, Latin Americans were suspicious, for they feared that the United States intended to dominate the western hemisphere, if not politically at least economically.[1] During the debates

* This is the second in a series of studies on the equality of states prepared in the International Law Seminar in Columbia University; see "The Equality of States as Dogma and Reality", POLITICAL SCIENCE QUARTERLY, Vol. LX, No. 4, December 1945, pp. 527-554.

1 "The Congress of 1889 had important repercussions, for it showed that the United States was primarily interested in the American Continent and wanted to

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that took place for the establishment of a plan of arbitration, the attitude of the South Americans was clearly stated by a delegate of Colombia who said that he was afraid that in a case of arbitration the sovereignty and equality of small states would not be duly recognized and protected, for "it would place the weaker nation in controversy at a great disadvantage; because, if it should be the weaker nation that refused to settle by arbitration, there would be no course left open to it but to accept under compulsion the conditions which the stronger adversary may wish to impose." [2]

The mistrust felt by the Latin countries was also reflected by Matías Romero, delegate for Mexico at the First International Conference of American States, who pointed out that the United States had the biggest population, the greatest extension of territory, the largest volume of commerce and was at a more advanced stage of civilization, making her the strongest nation in the western hemisphere. As such the United States had definite advantages over all the other Powers. He doubted very much that the United States Senate would ratify any convention placing her on an equal footing with the smaller nations.[3]

Their dread promptly disappeared with the opening address made by James G. Blaine, Secretary of State of the United States, at the opening of the Conference, who said:

> The Delegates can show to the world an honorable, peaceful conference of seventeen independent American Powers, in which all shall meet together on terms of absolute equality; a conference in which there can be no attempt to coerce a single delegate against his own conception of the interest of his own nation.[4]

The whole attitude of Latin America changed favorably; not only did they cease to consider the United States as a possible aggressor but they were disappointed by the caution which the

establish its economic hegemony over the Western Hemisphere." Alejandro Alvarez, *L'histoire diplomatique des republiques américaines et la Conférence de Mexico* (Paris, 1902), p. 52.

[2] International Conference of American States [hereafter cited as I. C. A. S.], First, *Minutes* (Washington, 1890), p. 845.

[3] Matías Romero, *La Conferencia internacional americana* (Mexico, 1890), p. 29.

[4] I. C. A. S., First, *Minutes*, p. 11.

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United States delegation showed in this and in the following conferences.[5] It must be remembered, however, that the United States delegates worked under a disadvantage, when compared with Latin American delegates, because of constitutional limitations. When they sponsor a resolution, they have to ponder whether the Senate, which represents the interests of the individual states, is willing to ratify acts that would strengthen a union among American nations.

The Inter-American System has slowly developed by means of a series of main conferences[6] (four of which were held at irregular intervals between 1889 and 1928), numbers of special meetings, conventions (such as the Financial, Sanitary, Commercial Conventions) and the work of the Pan American Union which coördinates the resolutions adopted by all the conferences.

At Havana in 1928 an attempt was made to fuse the system and the entire process of collaboration into a formal union. The Conference adopted and formally created the "Union of American States" which would come into being when ratified by every American republic.[7] It was intended to fulfill its purpose through the following organs: (1) the International Conference of American States, (2) the Pan American Union under the direction of the Governing Board, with its seat in Washington, and (3) every agency that may be established by virtue of conventions between the American states.[8] The Havana Conference made no attempt to constitute an American League of Nations; neither did it establish a permanent Inter-American Court of Justice, nor did it form a confederation of states. It did not even make promises of mutual guarantee of

[5] John V. Noel, *History of the Second Pan American Congress* (Baltimore, 1902), p. 7.

[6] The First International Conference of American States met at Washington, 1889-1890; the Second at Mexico City, 1902; the third at Rio de Janeiro, 1906; the Fourth at Buenos Aires, 1910; the Fifth at Santiago, Chile, 1923; the Sixth at Havana, 1928; the Seventh at Montevideo, 1933; and the Eighth at Lima, 1938.

[7] Statute of the Pan American Union (Washington, 1928), p. 7.

[8] To September 15, 1934, the convention approved at Havana had been ratified by the following countries: Brazil, Chile, Costa Rica, Cuba, Dominican Republic, Guatemala, Haiti, Mexico, Nicaragua, Panama, the United States, Uruguay and Venezuela.

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territorial integrity. The existence of the Union of American States was based solely upon moral forces, among which the legal quality of states was strictly respected. The Pan-American conferences, combined with and coördinated by the Pan American Union, were the only organs holding the Union of American States together.[9] Ever since the Inter-American Conference for the Maintenance of Peace was held in Buenos Aires (1936), this Union has been geared against the common danger of aggression. By making declarations of mutual coöperation and defense, the Monroe Doctrine which had been a unilateral doctrine was transformed, for the first time in history, into a common doctrine enforced by all the nations of the western hemisphere.[10]

As a result of the outbreak of the European War, a further extension of the multilateral application of the Monroe Doctrine was applied when, in September 1939, the Ministers of Foreign Affairs held a conference in Panama to study the steps which should be taken to maintain their neutrality. They drafted the "Declaration of Panama" which prescribed a region where the belligerent nations were asked to abstain from fighting, hence, trying to establish a new principle of international law.[11]

The meetings of the Foreign Ministers were successful in coördinating the hemispheric war effort and they finally agreed upon measures which were outlined in the Act of Chapultepec:

> That for the purpose of meeting threats or acts of aggression against any American Republic following the establishment of peace, the Governments of the American Republics should con-

[9] P. E. Corbett, *Post-War Worlds* (New York, 1942), p. 56.

[10] In 1913 Theodore Roosevelt expressed the hope that such an event would eventually take place, when he said: "The Monroe Doctrine should be treated as no longer a unilateral doctrine but one in the upholding of which this nation itself should take part as an equal among equals. I hope and I believe that ultimately the day will come when this will be true of all the nations of the Western Hemisphere. When that day comes the Monroe Doctrine, in the sense of being a unilateral doctrine enforced only by the United States, will entirely disappear. It will remain as much as ever a doctrine to be believed in and enforced, but it will be enforced by all the Nations of the Western Hemisphere as co-guarantors on a footing of equality." Quoted by Dr. Juan A. Buero, in I. C. A. S., Quinta, *Actas de las sessiones de comisión* (Santiago de Chile, 1923), p. 179.

[11] *Cf.* C. C. Hyde, *International Law* (Boston, 1945), III, 2348.

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> sider the conclusion, in accordance with their constitutional processes, of a treaty establishing procedures whereby such threats or acts may be met by the use, by all or some of the signatories of said treaty, of any one or more of the following measures: recall the chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; breaking of postal, telegraphic, telephonic, radio-telephonic relations; interruption of economic, commercial and financial relations; use of armed force to prevent or repel aggression.[12]

The Act reaffirms the privilege of American states to demand their rights as independent nations. It provides security, not only against foreign aggression but also from aggression within the hemisphere. This feature of the Act of Chapultepec derives, thus, from the Anti-War Pact of Saavedra Llama, of 1936, the Declaration of Lima, and the resolutions approved by the meeting of Ministers of Foreign Affairs. It goes further, however, for it calls for the use of armed force by all of the American nations to prevent or repel aggression.[13] The Monroe Doctrine is, therefore, no longer one of nonintervention but of collective security.

Juridical Equality

The concept of the juridical equality of states is the basic notion upon which the Inter-American System has been founded. Fundamentally, this equalitarian philosophy, applied in the international field, evolved in this hemisphere from the common features of the Americas—open spaces, optimism, unlimited room, wealth, idea of individual freedom—and conceives a way of law for individuals and states alike.[14]

In the realm of individual freedom, the American constitutions have generously granted guarantees which recognize the fundamental principle of equality before the law. Any persecution because of racial or religious prejudices, which makes it

[12] Inter-American Conference on Problems of War and Peace, *Final Act* (Mexico, D. F., 1945, Provisional translation), p. 10.

[13] *International Conciliation*, The Act of Chapultepec, April 1945, # 410, Section 2.

[14] Frank Tannenbaum, "The Future of the Inter-American System", *Proceedings of the Academy of Political Science*, May 1945, XXI, 415.

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impossible for a group of men to live decently, is contrary to the political and judicial systems of America.[15]

A similar attitude can be observed in the international field. American states recognize themselves as sovereign entities. As such, they claim to have equal rights and obligations analogous to those enjoyed by individual persons in municipal law. According to the Dickinsonian definition a distinction must be made between "equality before the law" and "capacity for rights". The former applies "when they are equally protected in the enjoyment of their rights and equally compelled to fulfill their obligations." The latter applies to the share of the states in their contribution to formulate law "that they are equally capable of acquiring rights, entering into transactions and performing acts" properly called by Dickinson "capacity for rights". Moreover, in his definition of capacity for rights he places some nations in a different category in so far as some have limitations imposed upon them by treaties and other international obligations. However, it is submitted that Dickinson tends to confuse the issue of capacity for rights with issues which enter into the realm of political equality. When he claims that internal constitutional limitations restrain their equality of legal capacity, it can be argued that it is a voluntary act, which could be reversed by the state itself, hence its capacity for rights is still inherent. When he deals with external limitations, he mentions states which as a whole do not possess all the attributes of sovereign states. These limitations, therefore, are essentially of a political nature. Political equality, on the other hand, is not difficult to recognize for it concerns such matters as representation, voting, and contributions in international conferences.[16]

The position taken by the American states is perfectly clear with regard to recognition of the principle of juridical equality

[15] The 1938 Conference recommended "to the nations of America that they coordinate and adopt provisions concerning immigration, wherein no discrimination based on nationality, creed or race shall be made." I. C. A. S., Eighth, *Final Act* (Lima, 1938), p. 63. See also Inter-American Conference on Problems of War and Peace, *Act of Mexico*, p. 46; I. C. A. S., Seventh, *Minutes and Antecedents* (Montevideo, 1933), p. 64.

[16] Edwin DeWitt Dickinson, *Equality of States in International Law* (Cambridge, Mass., 1920), pp. 3, 7, 189-218, 223-274, 280.

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in both of its connotations: equality before the law and capacity for rights. Equality in law, being a fundamental principal of international law, is recognized by every American statesman and jurist.[17] On the subject Victor Maurtua said:

> Every nation is in law and before the law the equal of every nation belonging to the society of nations, and all the nations have the right to claim and, according to the Declaration of Independence of the United States, to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them.[18]

The American Institute of International Law defined the second part when it stated: "Nations are legally equal. The rights of each do not depend upon the power at its command to insure their exercise. Nations enjoy equal rights and equal capacity to exercise them." [19]

The same concept was further expounded by the Committee on International Law at the Seventh Conference, in defining the rights and duties of states:

> States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The right of each one does not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under International Law.[20]

Latin American jurists are willing to go farther than their American colleagues, in developing the principle of absolute equality of states.[21] Dr. Juan A. Buero, Uruguay, believes that states have inherent rights of absolute sovereignty and are equal

[17] Secretary of State Hughes, in 1923, on the occasion of the celebration of the centenary of the Monroe Doctrine said, "We recognize the equality of American Republics, and their rights before the Law of Nations." Also see Elihu Root, *Latin America and the United States*, edited by R. Bacon and J. B. Scott (Cambridge, Mass., 1917), p. 10.

[18] I. C. A. S., Sexta, *Diario* (Havana, 1928), p. 486.

[19] *American Journal of International Law*, X, 124.

[20] I. C. A. S., Seventh, *Minutes and Antecedents*, p. 71.

[21] Drago Declaration, *United States, Foreign Relations* (1903), p. 2. See also Hyde, *op. cit.*, I, 27-28; Dickinson, *op. cit.*, p. 336; Philip Marshall Brown, "The Theory of the Independence and Equality of States", *American Journal of International Law*, IX, 305, 329.

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before the law, and that these rights as well as those they enjoy in their own domain " can in no way be limited, even with the consent of the concerned state." [22]

Political Equality

There is general agreement that the American states are equal before the law, for they have certain inherent rights and duties which are so closely connected with the attributes of sovereignty that the negation of such rights would endanger their independence. In terms of power, however, the United States is the one great Power in the western hemisphere. Our problem is to discover whether political equality is as jealously guarded as legal equality, and, if this be the case, what the rôle of the United States is, and how her influence is felt.

At the International Conference of American States in 1906 the delegates from the United States received the following instructions: " The Conference is not an agency for compulsion; it should not sit in judgment upon the conduct of any State. To give such character to the Conference would be fatal, for none of the States are willing to submit their sovereignty to the will of others." [23] It is clear that the United States government intended not to make use of its overwhelming power, in such cases as the international conferences where collaboration was the ultimate goal. One way in which this can be shown is by examining the voting powers of the various states.

There has never been any question as to whether or not the American states should have equal voting power at the conferences. The First International Conference at Washington, in 1889, established the rule which was followed by the subsequent conferences.[24] According to Article XV of this rule, " The

[22] I. C. A. S., Quinta, *Actas de las sesiones de comisión* p. 116. Also *Conference on Central American Affairs* (Washington, 1923), p. 80: " When nations are invited as sovereign powers to engage in a conference no nation can be bound without its consent. Unanimity is a part of the consequences of the statutes of States in International Law."

[23] *Report of the Delegates of the United States* . . . (Washington, 1906), p. 37.

[24] I. C. A. S.: Second, *Minutes and Documents* (Mexico, D. F., 1902), p. 84 (Art. 20); Third, *Minutes. Resolutions. Documents* (Rio de Janeiro, 1907), p. 16 (Art. 15); Cuarta, *Diario de sesiones* (Buenos Aires, 1910), p. xviii (Art. 15); Quinta *Actas de las sesiones de comisión*, p. 15; Sexta, *Diario*, p. 6; Seventh, *Minutes and Antecedents*, vol. 5, *Plenary Sessions*, p. 8.

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delegation from each state represented in this Conference shall have only one vote, and the vote shall be taken separately by States." [25] Although equal voting was never challenged in connection with general affairs of the conferences, serious thought was given to the question of proportional voting when economic interests were involved. At the First Conference a customs union was proposed, but the committee which was set up to deal with the matter could not decide on a basis for representation. If population and wealth were taken as criteria, "the small States would not be in a position adequately to protect their interests"; on the other hand, if the states were taken as individual units, on an equal footing, "the interests of the larger nations would not be adequately guarantied." [26]

A further indication of political equality in the functioning of the conferences can be found by examining the order in which the states affixed their signatures to the documents. Two systems were employed primarily: signing according to lots [27] and according to the alphabetical order of the Spanish names of the Powers.[28] This question is not of great importance but throws light on the problem at hand.

The language problem was solved in a similar manner. Four official languages were adopted: French, English, Spanish and Portuguese. Delegates were allowed to use any one of these and interpreters immediately translated the speech into the other three languages.[29]

A further test to determine the equality of states can be made by considering the way in which resolutions and decisions are arrived at: on the basis of either unanimity or a simple majority. The question is of transcendent importance. As Jean Jacques Rousseau pointed out, unanimity rule is the instrument by

[25] I. C. A. S., First, *Minutes*, p. 46.

[26] I. C. A. S., First, *Reports of Committees*, p. 103. It is interesting to notice that the customs union proposals were rejected by a majority of 12-3. Only Argentina, Chile and Bolivia were in favor of it. *Ibid.*, p. 245.

[27] I. C. A. S.: First, *Minutes*, p. 28 (Art. 4); Third, *Minutes. Resolutions. Documents*, p. 16; Cuarta, *Diario de sesiones*, p. xiv; Quinta, *Actas de las sesiones de comisión*, p. 11.

[28] I. C. A. S., Second, *Minutes and Documents*, p. 83 (Art. 8).

[29] I. C. A. S., First, *Minutes*, p. 38 (Art. 9).

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which the minority imposes its will upon the majority.[30] The conference, however, cannot be an agency of compulsion, for sovereign states are not willing to submit themselves to the will of other states, even if desired by the majority. They feel that they might lose their honor and their stature of equality in the family of nations.[31] Consequently, it is not strange that the United States delegates to the Third Conference mentioned that "it took some time to reach an agreement on the form of a report acceptable to the minority, and one that satisfies the majority." [32]

According to the rules established for the First Conference and followed at every subsequent conference, the reports and resolutions were considered approved by the conference if they obtained the majority vote of the delegations.[33] In practice, however, the Pan-American conferences try to reach unanimity as a means of assuring the moral support of the entire western hemisphere.[34]

At every conference, convention or congress, whether national or international, the bulk of the work is done in smaller groups known as committees or commissions. These small cells are the nuclei of international agencies. It is here that the main questions are discussed and decided upon; that the compromises are arrived at; and, above all, it is the place where the influence of great Powers is most likely to be felt.[35]

As has been shown before, the rule of procedure used by the Pan-American conferences states that the delegation of each republic has one vote and that the votes are taken separately by states.[36]

[30] George Catlin, *The Story of the Political Philosophers* (New York, 1939), p. 452.

[31] *Supra*, p. 97.

[32] *Report of the Delegates of the United States*, 1906, p. 11.

[33] I. C. A. S., Second, *Minutes and Documents*, p. 84 (Art. 21).

[34] *Ibid.*, pp. 452-456. At the Second Conference Antonio Bermejo of Argentina said that, contrary to parliamentary rules, the vote of the majority did not bind that of the minority in the Inter-American System.

[35] Norman L. Hill, *The Public International Conference, Its Function, Organization and Procedure* (Stanford University, 1929), p. 92.

[36] *Supra*, pp. 97-98.

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In accordance with our notion of political equality each nation has one vote, but the number of delegates sent by the participating states to the Pan-American conferences is variable. As a rule the wealthier and larger American states send large delegations, and also the country in which the conference is held usually has a large number of delegates.[37] The number of delegates of a particular country does not necessarily indicate its influence on the conduct of the conference, but it certainly affects the composition of the committees. Hence, the whole conference might be conducted in a way detrimental to the interests of the small nations which are not as heavily represented on the committees. This question became a burning issue at the Washington Conference of 1890. Horace Guzman, delegate for Nicaragua, stated that, for the delegations composed of only one member, the question of whether the absent members had a right to vote was of great importance. "When questions of primary interest are discussed and decided upon, their absence could not and should not be ignored."[38] The problem has never been completely solved, but of late the tendency has been to appoint every nation to every committee and to adjust the agenda in such a way as to give every delegation a chance to express its views in all committees.

The rule of procedure established for the First International Conference confers upon the permanent president of the conference the power to appoint the members of the committees.[39] The presidents of the following Pan-American conferences choose the committees according to the number of delegates representing the various countries and according to their respective fields of interest.[40] The names are submitted to the conference for approval, but it is the president who has the chief responsi-

[37] At the Third Conference in Rio de Janeiro, for instance, Brazil appointed nine delegates; the United States, six; Argentina, Chile and Uruguay, four; Peru, Mexico, Paraguay and Cuba, three; Colombia, Ecuador, Bolivia, Honduras and Salvador, two; Guatemala, Nicaragua, Dominican Republic, Costa Rica and Panama, one. I. C. A. S., Third, *Minutes. Resolutions. Documents,* pp. 25, 29.

[38] I. C. A. S., First, *Minutes*, p. 69.

[39] *Ibid.*, p. 14.

[40] Américo Lugo, *La Cuarta conferencia internacional americana* (Sevilla, 1912), p. 8.

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bility.[41] In 1889 James G. Blaine expressed his views on the subject when he said he hoped that he had performed his duties with absolute impartiality.[42]

The participation of delegates in committee meetings is not allotted but is in accordance with the interests of participating nations.[43] This is a fundamental departure from the absolute equality of states, but it is not inconsistent with American thinking. The Latin American nations do not claim to have as much power as the United States and they cannot disregard its influence. This undeniable influence was undisputed at the first four conferences. At the First Conference the United States was represented on every committee, having at times more than one delegate. The Executive Committee, for instance, was composed of two representatives of the United States and four Latin Americans, of whom Blaine, Zegarra and Romero were president and vice-presidents respectively of the Conference.[44] The Committee on Rules was of a different nature. There were seven members, representing Chile, Argentina, Brazil, El Salvador, Ecuador, Mexico and the United States.[45] This Committee was organized to formulate the rules of the Conference but its work was greatly hampered by the differences in the parliamentary practices of Latin America and those of the United States. Once the rules had been formulated the United States delegates protested vigorously for they believed that they had been outvoted six to one. True enough, the United States delegates were constantly challenged by the Argentine and Chilean delegates.[46] The position taken by Chile and Argentina, which seems to show the traditional attitude of that section of the Plata Basin, was not always unfounded. Matías Romero, who had been accused by the Argentinian papers of being pro-United States, tells us that the United States delegates were not always

41 I. C. A. S., Sexta, *Diario*, Art. 7.

42 I. C. A. S., First, *Minutes*, p. 90.

43 Hill, *op. cit.*, p. 140.

44 The Executive Committee was composed of the following members: James G. Blaine (U. S.); F. C. C. Zegarra (Peru); Matías Romero (Mexico); Cornelius N. Bliss (U. S.); José M. Hurtado (Colombia); Salvador de Mendonça (Brazil). I. C. A. S., First, *Minutes*, p. 90.

45 I. C. A. S., First, *Reports of Committees*, pp. 44-45.

46 Romero, *op. cit.*, pp. 17 *et seq.*

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perfect. John D. Henderson, who sat on the Committee of General Welfare, as its chairman, had a " peculiarity " consisting of his tendency to stop all resolutions and trying to make his own ideas prevail over the majority. Such an attitude made the work of the Committee extremely difficult, and as such endangered the success of the Conference.[47]

At the Second Conference the United States delegates occupied more chairs on the committees than any other country, except Mexico. They had seats on twelve of the nineteen committees that were set up. Most committees were very small except the Committee on Arbitration, which was found to be too large to deal satisfactorily with the question. Consequently, a subcommittee of working size (seven members) was formed. It is interesting to note that with the exception of Antonio Lazo Arriaga, of Guatemala, who was appointed for his personal qualifications, the other six members were delegates of the largest and wealthiest American republics.[48]

Again at Rio de Janeiro in 1906 no country except the United States was represented on every committee. The permanent president, Joaquim Nabuco de Arango, explained very clearly why the United States occupied such a prominent place when he said:

> With the exception of the Delegations who have only one member, those of two members will form part of four committees, those of three will form part of seven committees; the ones which have more than four are those of Brazil and the United States: the former will form part of nine committees, the latter of eleven because the difference of language and the immense interest attached to the United States whether from a material point of view, whether from a commercial, industrial or moral, causes the great Republic to represent half the American Continent weighing as such in balance.[49]

Next to the United States in importance, from the economic as well as the political point of view, is a group which can be

[47] Romero, *op. cit.*, p. 25.

[48] The seven members were: William Buchanan (U. S.); Jose Hygino Duarte Pereira (Brazil); Alberto Blest Gana (Chile); Emil Prado (Mexico); Antonio Bermejo (Argentina); Antonio Lazo Arriaga (Guatemala). *Message from the President of the United States* ... (Washington, 1902), p. 9.

[49] I. C. A. S., Third, *Minutes. Resolutions. Documents*, p. 80.

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classified as secondary Powers and has played a leading rôle at the Pan-American conferences. First come the so-called "A, B, C" Powers, then Mexico, followed by Peru and Colombia. The following table shows the number of committees in which each of the various countries was represented.

	1890	1902	1906	1910	Total
United States	17	12	12	12	53
Argentina	7	8	7	12	36
Brazil	7	4	9	13	33
Chile	8	11	7	13	38
Mexico	7	17	8	12	35
Colombia	9	6	5	7	27
Peru	3	8	7	10	28
Guatemala	2	7	4	7	20
Cuba	.	.	8	11	19
Honduras	3	6	4	7	20
Costa Rica	4	4	5	8	22
Nicaragua	3	5	5	7	20
Paraguay	3	4	8	7	22
Uruguay	4	4	9	11	28

The influence exercised at a conference is probably not in direct ratio to the mathematical calculations of the above table, because the imponderables, that is, personality, wealth and prestige, may influence a committee more than the mere weight of numbers. With regard to the number of representatives on committees, an explanation can sometimes be given for a membership which seems out of proportion. At the Santiago Conference in 1923 Chile had ten members on the Committee on Limitation of Armaments, but Chile had in mind the ever-present Tacna-Arica question. At this Conference a change in the set-up of committees can be noticed. The total number was reduced to eight, not counting the Executive Committee and the Committee on Revision of Credentials. Each state was represented on all committees although some nations had more than one member sitting on each committee. Counting the number of seats which various countries held, the United States had a total of thirty-three against Chile's twenty-eight and Argentina's twenty-seven.[50]

[50] I. C. A. S., Quinta, *Actas de las sesiones plenarias*, p. xxiii.

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Considering the size of committees at this and subsequent conferences, subcommittees are employed to a much greater extent. A novel system was created when reporting delegates called " Ponentes " were introduced. Their work is to elucidate the subject presented to the committees for study, consider the work previously done, and draw conclusions which are used as a basis for discussion. Within the committees they express their own opinions, but to the conference they present the views of the committee as a whole.[51] This system was further improved by Article Seven of the Rules of the Sixth Conference.[52]

The Seventh Conference had a total of ten committees and twenty-one subcommittees. Every delegation was entitled to be represented on all committees and subcommittees; however, the delegations were not large enough to be represented on all.[53] The greater numbers of places occupied by the United States, Argentina, Uruguay, Brazil, Chile and Mexico only reflect the size of their delegations, rather than a domination of the big Powers. It can be thus concluded that the Pan-American conferences are approaching a greater degree of equality in giving the smaller nations a larger share in the work of the conferences.

Among the many problems the Pan-American conferences had to deal with was the codification of international law. This problem came up at every conference and the question was how to solve differences in systems of law. At the Second Conference (Mexico, 1902), the final resolution provided that five American jurists and two Europeans would organize the work. At Rio de Janeiro in 1906 an International Commission of Jurists, having one representative for each of the American states, was set up. The Commission was increased in size when two members were appointed instead of one.[54] The Seventh

[51] *Report of the Delegates of the United States... to the Fifth International Conference of American States* (Washington, 1924), p. 70.

[52] *Special Handbook for the Use of Delegates*, prepared by the Governing Board of the Pan American Union (Washington, 1927), p. 22.

[53] *Report of the Delegates of the United States... to the Seventh International Conference of American States* (Washington, 1934), p. 4.

[54] Antonio S. de Bustamante, *The Progress of Codification under the Auspices of the Pan-American Union* (Havana, 1926), pp. 5 *et seq.*

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Conference (Montevideo, 1933) approached the subject in a different way. It maintained the Commission of Jurists, but added a Commission of Experts, composed of seven jurists. The method of choosing them was novel and equalitarian. Each country was to send a list of five persons to the Pan American Union which in turn would submit the entire list to the twenty-one republics. From this list each government would designate seven jurists, of whom not more than two would be its own nationals. The Pan American Union subsequently was to choose the seven members who obtained the highest number of votes, including, however, at least one person representing each of the two systems of jurisprudence of this hemisphere.[55] This proposal was unanimously adopted by the Conference and consequently the Commission of Experts met for the first time in Washington in 1937.[56] At the Lima Conference of 1938, the delegates departed from the notion of political equality when they proposed that a Permanent Committee of Jurists for the Unification of Civil and Commercial Laws of America should be composed of three members; one to be appointed by the government of the United States, and the other two members to be determined by lot from a list of jurists made up of one member designated by each of the Latin American countries.[57] Although this committee was not intended for the codification of international law, it throws light on our problem. In juridical matters, what counts is not the number of votes but the extent to which common law and Roman law are represented.

Whenever the theory of equal opportunity and equal treatment is evoked by statesmen, it would be easy to assume that they also include equality of obligation. According to natural law a right presupposes an obligation in so far as capacity of rights means not only capacity of rights but also equality of duties. This notion is not always enforced in the Pan-American System. The United States, due to her immense wealth, has assumed obligations far out of proportion to her actual voting power. Again and again examples of inequality of duty can be

[55] I. C. A. S., Seventh, *First, Second and Eighth Committees*, pp. 163, 164.

[56] I. C. A. S., Eighth, *Diario*, p. 298.

[57] I. C. A. S., Eighth, *Final Act*, p. 23.

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found. The Committee on Communications of the Atlantic, established at the First Conference, recommended that the American governments should subsidize certain fast steamship lines. The contributions were not divided equally but allotted in the following proportions: the United States, 60 per cent; Argentina, 17.5 per cent; Brazil, 17.5 per cent; and Uruguay, 5 per cent. Article XII of the proposal made certain concessions to the interests of the United States.[58] The Committee on Communications of the Pacific used another system to subsidize the steamship lines. It was to be paid by the respective governments in proportion to their population.[59]

Another project of great interest to the Americas was the establishment of a committee for the building of a Pan-American railroad. It was provided that the committee should consist of three engineers from each nation, but their salaries as well as expenses were to be assumed by all nations in proportion to their population.[60]

Even more remarkable was the subscription of 210,000 francs for the publication of Rufino Cuervo's *Dictionary*. Argentina, Mexico, Colombia, Chile and the United States gave 22,000 francs each, the other republics, 10,000 francs each.[61]

Inequality of duty and of representation is even more evident in the economic conferences, namely, the commodity agreements. It seems, however, to contradict other principles which may be called equality of treatment. Felipe Barreda Laos (Peru), advocating tariff reductions, said that " the principle of equality of treatment stands and must continue to stand as the basis of all acceptable commercial policies." Octavio Senoret spoke against import quotas as being in conflict with " the fundamental principle of equality of economic treatment." [62] The program sponsored by Cordell Hull, multilateral agreements with the

[58] Art. XII: " The contracting States shall accept only vessels constructed in the United States, in consideration of the higher aid paid by that Government." I. C. A. S., First, *Reports of Committees*, p. 267.

[59] *Ibid.*, p. 277.

[60] *Ibid.*, pp. 96-101.

[61] I. C. A. S., First, *Minutes*, p. 881.

[62] I. C. A. S., Seventh, *Fourth and Ninth Committees*, pp. 106, 134-135.

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most favored nation clause, tends toward the acceptance of equality of treatment which is in accordance with the principle of juridical equality.

In April 1890, the Committee on Customs Regulations unanimously recommended the establishment of a bureau for the tabulation and publication of information concerning the production, commerce, laws and regulations of the different American republics. The bureau was called the Commercial Bureau of the American Republics, having its seat at Washington, and was directly under the supervision of the Secretary of State of the United States. The maximum expense to be incurred by the Bureau was $36,000, and the amount was divided among the American republics, not equally, but in proportion to their population.[63] The United States consequently paid the largest share of the contributions and controlled the agency since all employees were chosen by the Secretary of State.[64]

The Second Conference tried to reorganize the Bureau on a broader and more equalitarian basis. The Governing Board was to be formed by the diplomatic representatives of the American republics accredited to Washington, having as its chairman the Secretary of State. The merit system was advocated for testing the capacities of the employees. The name of the Bureau was changed to the International Bureau of the American Republics.[65]

Little was changed at the Third Conference. The functions of the Bureau remained the same, although one important factor was added when the Bureau became the permanent committee of the Pan-American conferences. The Secretary of State also remained as the permanent chairman of the Governing Board. The building to house the Bureau was to be erected in Washington at a cost of $150,000, to be paid by the republics in proportion to their population.[66]

[63] I. C. A. S., First, *Reports of Committees*, pp. 405, 407, 411.

[64] The first director was William Curtis. See *Bulletin of the Pan American Union, LXIV*, 332-345.

[65] I. C. A. S., Second, *Minutes and Documents*, pp. 518-521.

[66] I. C. A. S., Third, *Minutes. Resolutions. Documents*, pp. 573 *et seq.*; also pp. 160, 161, 169. The structure and grounds represent an investment of $1,100,000, of which Andrew Carnegie gave $850,000.

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At Buenos Aires in 1910 the Conference again changed the name of the Bureau to its present one, the Pan American Union. Its functions remained the same as those of its predecessor. The chairman of the Governing Board was still the Secretary of State but in his absence the diplomat of highest rank and hierarchy occupied his place.[67] The privileged position occupied by the Secretary of State was not altogether unopposed.[68] The Fifth Conference succeeded in abolishing this source of irritation by making the chairmanship and the vice-chairmanship of the Board elective.[69] Moreover, five years later the Latin American countries won another victory when the members of the Governing Board were directly appointed by the governments. Therefore their presence was not dependent upon the recognition of their governments by the United States. The chairmanship and vice-chairmanship continued to be based on the rotation principle, but it was not extended to the directorship of the Union, on the principle that freedom of election was a fundamental principle of democracy.[70] One important limitation was placed on the Pan American Union and the Governing Board, namely, that they "could not exercise functions of a political nature."[71] Hence the Union cannot properly be called the executive branch of the Inter-American System.

The Inter-American Conference on Problems of War and Peace (1945) introduced certain urgently needed reforms. The delegates, assembled at Chapultepec, resented the dominant position which the United States maintained in the Pan American Union. Mexico offered for consideration a plan to abolish

[67] I. C. A. S., Cuarta, *Diario de sesiones*, pp. 468-478.

[68] The delegation of Venezuela, "realizing the great role that the United States has played in the founding of the Pan American Union, finds there is a conflict of ideologies. On one hand it admits that out of courtesy, since the Union is situated in Washington, the Secretary of State should play a prominent part in the Union. On the other hand the superior principle of Equality of States should be placed above all other considerations." I. C. A. S., Cuarta, *Anexos*, pp. 221-222.

[69] M. Margaret Ball, *The Problem of Inter-American Organization* (Stanford University and London, 1944), p. 19.

[70] *Report of the Delegates of the United States...to the Sixth International Conference of American States* (Washington, 1928), pp. 4, 6. Also see I. C. A. S., Sexta, *Diario*, pp. 78 *et seq.*

[71] Ball, *op. cit.*, p. 22.

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the Union.[72] It would be replaced by a Permanent Secretariat housed in the building of the Pan American Union. A Secretary General, elected by a Council of the new "American Union", would hold office for ten years, not subject to reëlection. The Council would be composed of one member from each republic. It would consider broad questions of security, peace and welfare. It would meet every six months at different capitals. Also stressed was the necessity for transforming the non-political Inter-American System into an agency empowered to solve social, economic and political problems, in coördination with the world organization.[73]

Faced with severe criticism from Latin America, especially Mexico, the United States made counter-proposals for the reorganization of the Pan American Union.[74] The reforms were accepted as being in accord with the gradual democratization of the Union.[75] The Governing Board of the Pan American Union, as embodied in Resolution IX, "shall be composed of *ad hoc* delegates designated by each of the American Republics."[76] It also provides that the Chairman of the Governing Board "shall be elected annually and shall not be eligible for reëlection for the term immediately following."[77] The Director General of the Union is appointed by the Governing Board for a term of ten years and is not eligible for reëlection. Because of the advanced age of Leo S. Rowe, the present Director General, this rule does not take effect until January 1, 1955. Another important provision of this act is that the meetings of Ministers of Foreign Affairs, called by the Pan American Union, are summoned by an absolute majority of the Governing Board.[78]

[72] Inter-American Conference on Problems of War and Peace, *Document* [hereafter cited as *Document*] (Mexico, D. F., 1945), No. 43, CI-PR-23.

[73] *Document*, No. 55, CI-PR-35.

[74] *Document*, U. S. Del., No. 36.

[75] Inter-American Conference on Problems of War and Peace, *Final Act*, Resolution IX, p. 11.

[76] *Ibid.*, Resolution III.

[77] *Ibid.*, Resolution V, p. 12. "Dr. Carlos Martins Pereria de Suza, Ambassador of Brazil, was elected chairman tonight of the Governing Board of the Pan-American Union. He succeeds Secretary Byrnes. Ever since 1902 the Secretary of State has been elected as Chairman . . . ." *The New York Times*, December 6, 1945.

[78] Inter-American Conference on Problems of War and Peace, *Final Act*, Resolution V, p. 12.

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The Inter-American Conference on Problems of War and Peace which was opened February 21, 1945 by President Manuel Avila Camacho at the historic Castle of Chapultepec, Mexico City, was neither an international conference of American states nor a consultation of foreign ministers,[79] but was an extraordinary conference called by the Mexican government to consider "the manner of intensifying the collaboration and the participation of America in the future world organization, and the further measures that should be taken to strengthen the Inter-American System and the economic solidarity of the Continent."[80] The key to this extraordinary meeting can be found in the official text of the invitation extended by the Mexican Republic to the other American republics, wherein it is stated that the aims of the conference shall be the renewal of collaboration among the American republics and *la participación de America en la futura organización mundial*.[81] It was feared by some Latin American statesmen that the United States would lose its identity with the hemispheric system by giving complete and exclusive allegiance to the world security organization[82] which was to be formed within a few months at San Francisco. In the eyes of Latin America the Inter-American System is a well-established organization which should not lose its function and its identity in an over-all organization. President Manuel Avila Camacho, in his inaugural speech, expressed the common fear that the peace might be lost, if the unity of the western hemisphere was not maintained.[83]

The great Mexican statesman, Ezequiel Padilla, while recognizing that the Dumbarton Oaks proposals are basically sound,

[79] Pan American Union, *Report on the Meeting of the Ministers of Foreign Affairs of the American Republics*, 1939. See also *Report on the Second Meeting of the Ministers of Foreign Affairs of the American Republics*, 1940; and *Report of the Third Meeting of the Ministers of Foreign Affairs of the American Republics*, 1942.

[80] Inter-American Conference on Problems of War and Peace, *Report Submitted to the Governing Board of the Pan American Union by the Director General* [cited hereafter as *Report to Pan American Union* (Washington, 1945), p. 1.

[81] *Diario de la conferencia interamericana sobre problemas de la guerra y de la paz* [cited hereafter as *Diario*] (Mexico, D. F., 1945), No. 1, p. 1.

[82] *Chapultepec: Road to San Francisco* (reprinted from *The Washington Post*, February 23-March 8, 1945), p. 2.

[83] *Diario*, No. 2, p. 10.

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realized that they lacked certain fundamental principles necessary to raise the hopes of a war-torn world. "If peace is not formulated for the benefit of human liberties," said Mr. Padilla, "if the fundamental right and the juridicial equality of states are not safeguarded, peace will not count and cannot count with the sincere efforts of free nations and free men." [84] The Mexican Secretary of State had well in mind the ever-present problem of the equality of states. In the above statement he placed the juridical equality of states as a co-equal of other fundamental rights of states. He was, however, careful to differentiate between the legal capacity of states and the political weight of states in world affairs, saying:

> The small nations do not pretend to equal participation in a world of unequal responsibilities. What they do desire is that when injustice may strike at the door of small nations, their voices may be heard; and that their complaints and protest against injustice shall not be shrouded in the silence and blind solidarity of the Great Powers.[85]

Mr. Padilla's statement reflected the general attitude of Latin America, that is, demanding greater participation in the future world organization, but almost never denying or ignoring the fact that the major Powers have the greatest responsibilities. They were willing to give the lead to great Powers as long as the small Powers could have a voice in the affairs directly affecting their interests.

The program of the Conference, as outlined by the Mexican government, stressed three main subjects as the basis of discussion: first, the intensification of measures of coöperation among the American states for the prosecution of the war; second, the solution of problems of international organization, subdivided into the topics of the future world organization and the further development of the Inter-American System; third, the consideration of economic and social problems particularly those immediately following the cessation of hostilities.[86]

[84] *Diario*, No. 3, p. 25.

[85] *Report to Pan American Union*, p. 10.

[86] *Ibid.*, p. 3.

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The preliminary rules formulated for the conduct of this special conference were similar to those applied in previous Pan-American conferences. At the conferences, as well as in the committees, the individual republics had but one vote. The order of procedure which was applied in the taking of votes and in the signing of documents was determined by lot. The president of the Conference was elected by an absolute majority vote of the delegations and his powers were also similar to those of his predecessors. He presided over the Conference and decided the order of debate. The Secretary General was to be designated by the president of the Mexican Republic.[87]

Elaborate rules were drawn up to specify the duties and functions of the committees. Each delegation had the right to be represented on all the committees and could designate as many delegates and substitutes as it deemed necessary. The majority rule which is invariably applied in Pan-American conferences requires that all projects and propositions should be approved by an absolute majority of the delegations. In two cases only was a two-thirds vote required: one, in order to change the order of the agenda; and two, when new subjects, not included in the agenda, were brought up by a delegate or a group of delegates.[88] The preliminary rules were adopted by the Conference with practically no changes.[89]

Following the traditional practices of the Pan-American conferences, Gustavo Chacón proposed that the head of the Mexican delegation be elected permanent president of the Conference. This motion was unanimously accepted by the conferees. The position of vice-president was rotated among the heads of the delegations, according to the order previously established by lot, in the absence of the president.[90] The chairmen of the delegations were also members of the Committee

[87] *Diario,* No. 1, pp. 2-3, Arts. 5, 8, 10, 20.

[88] *Diario,* No. 1, Arts. 13, 26, 27, 30.

[89] Article 29 of the Preliminary Rules established the Spanish language as the official language with the provision that it would be translated in other languages if desired. The Brazilian delegation proposed and obtained Portuguese, French and English as well as Spanish as the official languages of the Conference. *Diario,* No. 2, p. 13.

[90] *Diario,* No. 1, p. 2.

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on Initiatives which was presided over by the President of the Conference.

The organization of the Conference closely followed the main subjects of discussion. Six committees were organized to deal with the following subjects: further measures to intensify cooperation in the war effort, the world organization, the Inter-American System, post-war and economic problems, economic problems of the war and transition period, and drafting and coördination.[91]

The inevitable clash between small Powers and relatively big Powers was observed at Chapultepec in connection with the subdivision of key committees. The representative from Honduras, Julian de Caceres, proposed that committees or subcommittees in charge of the agenda should not be more than three in number. He reasoned that if three committees were set up, small delegations, like that of Honduras, would have an opportunity to attend all the committee meetings.[92] More than three subcommittees would handicap the small delegations, placing them on an unequal basis *vis-à-vis* large delegations. Manuel Gallagher of Peru, supported by the Colombian delegation, based his argument, sustaining larger delegations, on the claim that efficiency is more important than participation of all countries in all committees. However, Camilo Ponce of Ecuador, a member of a small delegation, stated that if the motion for the establishment of a large number of subcommittees should be passed, it ought to be by a nearly unanimous vote of the delegations.[93] In this case the Peruvian motion was approved by the Conference. It shows, however, how small Powers try to uphold their national prestige and assert their equal participation in international conferences, even if their national sovereignty is not directly threatened.

The first committee was organized to increase the effective collaboration of the American republics toward the successful termination of the war. It covered, therefore, the formulation

[91] *Ibid.*, p. 4. In addition, a Committee on Credentials was also organized, composed of Gustavo Henrique (D. R.), Marcos Kohly (Cuba), and Guillermo Sevilla (Nicaragua).

[92] Honduras had only one delegate, Colombia had 7. *Ibid.*, pp. 5-8.

[93] *Diario*, No. 2, pp. 14, 15.

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of agreements on all military and political matters which might increase the fighting power of the United Nations. Pedro Leoa Velloso of Brazil was chosen chairman of the committee in recognition of his country's outstanding participation in the war.[94]

The work of the first committee was divided into two subcommittees, to handle military and political questions respectively, the former approving a project for the creation of a permanent military agency and the control of armaments. This subcommittee was composed of delegates of Chile, Colombia and Mexico. Adolf A. Berle of the United States had been originally appointed to this committee but was replaced by the Chilean delegate in view of the fact that he held the position of Reporting Delegate of the Committee.[95]

The subcommittee, dealing with political questions such as the elimination of centers of subversive influence from America and the definition and implication of war crimes, was composed of representatives of Cuba, Uruguay and Peru. Notwithstanding the right of all other delegations to inform or question the committees directly,[96] it should be noted that every key position was occupied by those nations that have played major rôles at previous Pan-American conferences.

Committee II, officially known as the Committee on World Organization, presents an excellent example of the conflict between the concept of equality of states as dogma and as reality. The delegations were confronted with the problem of choosing between the equalitarian theory as developed in the Inter-American System and the apparent inequalities found in the Dumbarton Oaks proposals. If the latter had been adopted it would have been an acknowledgment of defeat, but if the former had been adopted, the coming world organization would have been doomed in advance. Moreover, the United States as one of the sponsoring Powers was interested in the successful outcome of the coming United Nations Conference. As a

[94] *Diario*, No. 2, p. 15. The vice-chairman was Miguel J. Moreno (Panama) and the Reporting Delegate was Adolf A. Berle (United States).

[95] *Diario*, No. 6, pp. 65, 66. *Report to Pan American Union*, p. 7. See also *supra*, p. 104.

[96] *Report to Pan American Union*, p. 7. *Diario*, No. 6, p. 66.

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result the delegates at Chapultepec refrained from formulating a definite policy. The final act does not include resolutions on world organization but only contains a synthesis of the views of Latin America on the Dumbarton Oaks proposals and recommends that a report made by Caracciolo Parra Perez be transmitted to San Francisco.[97] In the following pages an attempt has been made to present the outstanding proposals in which ideology and reality are in direct conflict.

Edward Stettinius, Jr., then Secretary of State of the United States, was appointed chairman of the Committee on World Organization. Guillermo Belt Ramirez of Cuba was chosen vice-chairman, and the Reporting Delegate was Caracciolo Parra Perez. Mr. Parra Perez was also the chairman of a subcommittee composed of six men which was entrusted with the coördination of the proposals submitted by all delegations.[98] These proposals, according to the rule adopted by the subcommittee, had to be presented in writing and article form, if possible.[99] It is believed that Mr. Paslovsky, as an author of the Dumbarton Oaks proposals, used his influence to safeguard the integrity of the proposals until the opening of the San Francisco Conference.[100] The Latin American proposals which were included in Resolution XXX merit study as a reflection of the attitude of the Latin American countries toward the world organization and, in particular, toward the problem of the equality of states.

The Security Council which was to be composed of five permanent and six nonpermanent members proved to be the center of the most criticism. The Latin American nations unanimously agreed that wider representation should be given to the western hemisphere. Guatemala and Venezuela, although not specifying any number, asked for nonpermanent seats based on the rotation system.[101] Honduras and Ecuador wanted three

[97] Inter-American Conference on Problems of War and Peace, *Resolution XXX on the Establishment of a General International Organization and Annexed Document* (Mexico, D. F., 1945), p. 18.

[98] *Diario*, No. 4, p. 41. The six men included Hilderando Acciola, Brazil; Cesar Salaya, Cuba; Felix Nieto de Rio, Chile; Leo Paslovsky, United States; Roberto Cordova, Mexico; Caracciolo Parra Perez, Venezuela.

[99] *Diario*, No. 5, p. 54.

[100] *Chapultepec: Road to San Francisco*, p. 2.

[101] *Document*, No. 198, C2-V-6; No. 207, C2-V-15.

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nonpermanent seats for Latin America but disagreed on the total membership of the Council. Honduras advocated fifteen members, including the five permanent members, while Ecuador wanted only thirteen.[102] Brazil, Panama and Uruguay suggested one permanent seat for Latin America while Paraguay believed more than one to be necessary.[103] Uruguay stood in favor of a Security Council the members of which were to be elected by the Assembly, admitting, however, that at the present time the Big Five should sit without election.[104]

Brazil introduced a number of resolutions which, if passed, would have seriously curtailed the powers of the Security Council. Brazil was in fact proclaiming a "super-Monroe Doctrine" which excluded the world organization from American disputes. Brazil also believed that, with the exception of a period of transition, the Council should be chosen according to democratic principles which would take into consideration the sovereign equality of states. Only if the concept of permanent members prevailed, should Latin America be justified in receiving one permanent seat.[105] In order to extend the equalitarian principle, Brazil also suggested that amendments to the future organization be obtained by a two-thirds majority of the Council, as well as of the Assembly.[106]

Chile also believed necessary the application of the principle of equality in the election of the Security Council, recommending that the membership should be increased to fifteen. In line with the Latin American attitude, Chile desired to see three Latin American members on the Council and suggested that, in the case of a military intervention, a unanimous vote should be obtained (excluding the concerned party).[107] Mexico and Cuba

[102] *Document*, No. 203, C2-V-11; No. 197, C2-V-5.

[103] *Document*, No. 204, C2-V-12; No. 196, C2-V-4; No. 194, C2-V-2; No. 200, C2-V-8.

[104] *Diario*, No. 11, p. 171. See also p. 205.

[105] *Document*, No. 204, C2-V-12.

[106] *Diario*, No. 11, p. 173. Amendments in the Dumbarton Oaks proposals require the unanimous consent of the permanent members and a two-thirds majority in the Assembly.

[107] *Ibid.*, pp. 177-178.

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also opposed permanent membership in the Council. These delegations even disliked the title, United Nations;[108] Cuba suggesting " World Community of Nations". The Cuban delegation proposed to the second committee that " the Dumbarton Oaks proposals be modified because they do not abide by the principles of international law " and do not provide an " adequate juridical framework " for the world.[109] In pointing out that the proposals do not prohibit regional agreements, Colombia considered that the western hemisphere should devote its efforts to the improvement of the Inter-American System rather than to a world organization.[110]

Almost unanimously the proposals show that Latin America favored greater powers for the Assembly. Mexico proposed that the Assembly should elect the semipermanent as well as the nonpermanent members of the Council.[111] Since semipermanent members were elected for eight years only, it can be deduced that the Assembly would have become the final authority in the world organization.

Conclusion

To speak of equality of states as applied in the Inter-American System in general terms is an impossible task due to the various aspects included in the " Union of American States ".

Juridical equality has become a well-defined rule of American international law and as such has been adopted by the vast majority of American statesmen and jurists.

Great changes have taken place in the policy of the strongest state of the western hemisphere. It has willingly outlawed war and conquest as a national policy. Manifest Destiny has taken new and peaceful channels in the inauguration of the Good Neighbor Policy. The change, however, began under the leadership of James G. Blaine. The rules established for the conduct of the First Conference, and later applied to the other seven, are consistent with the principles of political equality.

108 *Document*, No. 206, C2-V-14; No. 190, C2-V-7.

109 *Document*, No. 25, C1-PR-5.

110 *Document*, No. 202, C2-V-10.

111 *Diario*, No. 11, p. 174.

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Although the rules are based on equalitarian principles, the overwhelming weight of the United States cannot be ignored. In our world of power politics, perfect political equality would be a Utopia. In order to find perfect equality, two crucial tests have to be met: first, every state should have an equal voice in the community of nations, and, second, every state, in order to have equal rights, should have equal duties. The Inter-American System does not measure up to these standards. In most cases the American states have equal voting power, but the United States plays a dominant rôle in the committees. When it comes to economic matters, there can be found a definite inequality of contribution. The United States has played a rôle consistent with its rank among the world Powers, rather than as an equal among equals. However, it is well known that the United States has not taken undue advantage of its position as a great Power at inter-American meetings. The Inter-American System, as a whole, is tending toward the democratization of all of its agencies. It is believed that the Inter-American Conference on Problems of War and Peace (1945) marks a new milestone in the development of this system. The preamble of the Act of Chapultepec, by itself, is of great importance. It includes and ratifies all the juridical and political principles formulated by preceding conferences and reaffirms the absolute sovereignty and juridical equality of all American states. But it is the main body of the Act which nullifies the doctrine of nonintervention and substitutes one of collective security within the hemisphere.

Argentina brought this doctrine to an immediate test as the result of her absence from the conference. It concerned all America, but the main responsibility rested with the United States. If intervention by force was to be decided upon by the rest of Latin America, the United States, to whom the leadership of the western hemisphere has been entrusted, would either have to choose intervention on behalf of the Americas, or leave the ultimate decision to the United Nations Organization. Would the regional agreements for the settlements of disputes operate independently or would they be placed under the supreme authority of the Security Council? That is the problem which

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confronted the delegates at the Castle of Chapultepec and later at the Golden Gate. If the former was applied, Latin America felt that the further democratization and wider application of the principles of equality in the Inter-American System adequately protected their rights as minor Powers. If the latter, their aim was to obtain as much representation as possible on the Security Council and to increase the attributes of the Assembly.

At the San Francisco Conference what the smaller nations of Europe most desired was a system like the Inter-American System—where, as Pedro Leao Velloso, of Brazil, observed, "before the law there are no great, medium or small powers. All have the same right to respect for their individuality, their territorial integrity and their complete independence. The Americas do not constitute a bloc. The Americas are much more than that. They constitute a way of life." [112]

Latin America's reaction toward the San Francisco Conference might be reflected by Miguel Campa who said that the Conference has destroyed and neutralized the results achieved at Chapultepec. The American creed of equality and justice which cancels the difference between large and small is not found in the United Nations Charter.[113] He believes that everything was done by everybody—*que todo lo hemos hecho todos*. Hence any state should have equal voting power as any other state, irrespective of power and wealth, as exemplified in the Inter-American System.[114]

ROBERTO HERRERA

GUATEMALA CITY

[112] *New York World-Telegram*, June 27, 1945.

[113] But paragraph 1 of Article 2 of the United Nations Charter states: "1. The Organization is based on the principle of the sovereign equality of all its members."

[114] Miguel Angel Campa, "La Conferencia de San Francisco", *Revista de Derecho Internacional* (Havana, Cuba), September 1945, pp. 57-61.

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Freedom and Responsibility in the American Way of Life. By CARL L. BECKER. Five Lectures delivered on the William W. Cook Foundation at the University of Michigan, December 1944. With an introductory essay by George H. Sabine. New York, Alfred A. Knopf, 1945.—xliv, 122, iv pp. $2.00.

This volume consists of five essays on "American Political Traditions", "Freedom of Speech and Press", "Freedom of Learning and Teaching", "Constitutional Government", and "Private Economic Enterprise", preceded by a brilliant forty-page introduction by Vice-President Sabine of Cornell. Several of these lectures contain material already made available to the public in other forms, but others are entirely new.

In the essay on "American Political Traditions", Dr. Becker finds that America's political progress was based on the lavish gifts of nature, but for the future we must depend "less stubbornly upon our individual freedoms" and "recognize somewhat less grudgingly our communal responsibilities."

In the essays on freedom of speech, press, learning and teaching, the author expresses his deep concern over unexpected tendencies toward intolerance in these vital areas of democratic government. In the complex society of our time, these basic safeguards of freedom are assailed in many ways, which are briefly sketched. He concludes that democracy will triumph in the end over all the subtleties of evil. What are needed for the solution of difficult national and international problems are qualities which are relatively simple: more intelligence, more integrity and a heightened sense of responsibility. In the last analysis everything depends on "virtue" in the original sense of the term, he declares.

The chapter on "Constitutional Government" contains a strong protest against the system of divided responsibility in the national government, and a plea for joining more closely political power and responsibility; but there is no indication of ways and means to bring this about.

In the last lecture Dr. Becker affirms his belief that "private economic enterprise" is the necessary basis for "the intellectual and po-

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litical freedom without which democracy cannot exist" (p. 111). Public efforts should be directed toward making private enterprise work, by providing adequate opportunities and incentives. He concludes, however, with a strong endorsement of the Murray Bill providing for the guaranty of economic stability by the United States government. He does not indicate any knowledge of the historical basis of this measure in President Hoover's Employment Stabilization Act of 1931.

With these lectures comes to a close the career of a brilliant political essayist whose polished phrases and illuminating ideas carried challenge and warning to the large circle of his readers. Of the dozen or so major publications of Dr. Becker the reviewer would not rate this one as the most important. His vote would be for Becker's *Declaration of Independence* and for the *Heavenly City*. The *Declaration* in particular stands as a significant example of the fusion of philosophy with textual analysis.

To those who are interested, as the reviewer has been for a long time, in finding the key to Dr. Becker, the notable introduction by Sabine is most illuminating and useful. It was always puzzling why Becker, a highly trained scholar and an inspiring teacher, distrusted "objective history", or a brilliant writer inveighed against "artistic writing"; or why he avoided, in the main, sophistication in the techniques of government and economics. Why did he, in his well-known presidential address before the American Historical Association, renounce claims to historical science, and also veer away from formal generalizations of almost every type, especially if labeled philosophical? One might characterize this as the tactics of timidity, the careful preservation of honorable ways of retreat from positive commitments. But Becker did not lack courage. On the contrary he rushed into the center of the fray from time to time, striking out almost recklessly without protecting his flanks, as in his very last essay. Sabine very acutely remarks: "There was something perhaps a shade paradoxical in his preference for the cool ardors of the philosophers who preceded a revolution and his distrust of the violent emotions without which revolutions cannot be made." The reviewer cannot agree, however, with Sabine's remark that Nietzsche was a better exponent of Becker's generation than Dewey.

Again it would be possible to characterize Dr. Becker as a skeptic, distrustful of all basic values as well as basic principles. Yet at heart he was full of faith, a crusader, at times a knight coming to the rescue of the downtrodden and oppressed against the mighty and the wicked in the hour of need.

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The rôle of Becker in our democracy and in our time was that of the brilliant and polished stylist, flashing his light here and there through the darkness and the fog, but never becoming a " beam " as we might say in these days. Intrigued by philosophy, he shrank back in fear of formalism and dogmatism; interested in public affairs, he usually kept away from the techniques of government and economics, as from those of other social sciences. An historian of high competence, he preferred pointing to trails rather than clearing the forest or building the highways. Becker gave up his possible five-foot shelf of historical tomes, but his magnificent contributions to the thinking of his times are full of meaning in the formulation of democratic thinking in a sorely troubled time.

CHARLES E. MERRIAM

THE UNIVERSITY OF CHICAGO

Fate and Freedom: A Philosophy for Free Americans. By JEROME FRANK. New York, Simon and Schuster, 1945.—viii, 375 pp. $3.00.

A proper review of Judge Frank's book would take at least as many pages as the book itself. It was a bold undertaking to write it. The subject is not a new one. Indeed, the very title is not new, since a theologian, Mr. John Oman, wrote a book called *Problems of Faith and Freedom* in 1906. As a problem, the matter is as old as the first stirrings of what can be called either metaphysics or theology. The controversy on fate and freedom between Pelagius and Augustine is a library in itself, consisting not only of what each of them wrote, but of what hundreds of persons wrote about what each of them meant; and even if the similar controversy between Calvin and Arminius with its incredibly prolific progeny is added, we should still have only a fragment of the total mass of literary activity aroused by the fact that most men have always felt more or less free and have for millenia been taught that they are either the helpless subjects of a divine despot or the equally helpless cogs in a monstrous cosmic machine.

What disturbs Judge Frank is the presence he finds among Americans of a strong tendency to this ancient error. He ascribes it to current theories of history which assume fixed " patterns ", to our acceptance of an " ascetic " doctrine of science in which a concatenation of causes inevitably " determines " all events, and to theories of psychology that assign all human conduct to similar more or less fixed determinants.

Judge Frank's method is to call attention with gusto and wit to the many weaknesses in our historical transmission, which of themselves

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should give the self-confident pattern-makers pause. It will, however, not stop them. Apparently the temptation to find such patterns is irresistible, both in men like Spengler, who knew very little history, and in men like Toynbee, who knows a great deal. In the same way, in science, Judge Frank directs determinists to modern quanta-theories and to those scientists of today who have reintroduced chance and probability into presentations of the universe.

His conclusion is, of course, that we are free to construct a social scheme which will satisfy our moral judgments, if we really wish to, and that there is no mysterious force in the nature of man, or in the atomic structure of our bodies or of our physical environment, which will inevitably make our future what, not we, but these forces determine. His gods are finite beings, neither omniscient nor omnipotent, and he does not have to devise a theory of synergism like that of Melanchthon who found it possible for finite man to assist Omnipotence in the work of creating a moral order. Nor does he have to meet the contention of that eminent American of two centuries ago, the Reverend Jonathan Edwards, who in 1754 published a *Careful and Strict Inquiry into the Prevailing Modern Notion of the Freedom of the Will,* or to accept the solemnly inconclusive formula offered by Milton's God in the Third Book of *Paradise Lost.*

There is no doubt that he is dealing with a real problem, but it is a problem which concerns at most some ten per cent of our population. It is, however, the fraction from which we might be expected to derive intellectual leadership and stimulation. That another lost generation is in the making as a resultant of the forces he describes so vividly is scarcely to be doubted. Like the last one, this generation's sense of loss and bewilderment will be intensified by frustrated hopes and the bitterness of disillusion. Pessimism and mysticism are the avenues of escape, and the cults of scientific asceticism and of the inevitability of historical process which Judge Frank fully and successfully dissects are common forms of expression for these emotional and intellectual depressions.

It is well, however, to remember that in past times the announcement of a belief in fatalism has not paralyzed human activity nor forced men to accept with resignation whatever occurred to them. Calvinist predestinarians and Muslim devotees of *Maktub,* "It is written", have nonetheless made energetic efforts to reform existing society. It is an excellent thing to have in this book a withering analysis of the pseudoscientific bases of the belief in fate. But on those to whom this belief is a rationalization of inertia, this analysis will have

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little effect. There is doubtless a righteous remnant that will be heartened and to them this book should be of great comfort.

In the case of a book that presents so overwhelming and so catholic a range of authorities, it seems absurd to add further books in which the problems here presented are discussed. Still, some additional profit for contemplation and action might be got from the works of Charles Renouvier, one of the most considerable of nineteenth-century philosophers, far too little known in the English-speaking world. I commend to Judge Frank's readers not only Renouvier's *Philosophic analytique de l'histoire* but, above all, his charming *Uchronie*, in which he sights Inevitability and sinks same. Indeed, Alexander of Aphrodisias in his little treatise on Fate, recently (1931) retranslated into English —Grotius had long ago translated it into Latin—does much the same.

Where so much is given, errors will creep in. Cicero (p. 121) was not a Stoic but an Academic. His book *De Fato* is a statement of the Academic refutation of Stoic fatalism. I take the malicious pleasure in calling attention to this lapse because Judge Frank found me out recently in an historical error and my self-esteem has not yet quite recovered from that blow.

MAX RADIN

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Freedom under Planning. By Barbara Wootton. Chapel Hill, The University of North Carolina Press, 1945.—vii, 180 pp. $2.00.

National planning in industrial society, including the United States, is from now on unavoidable. This unavoidability stems from two facts. First, we now know that it is entirely possible for a continental economy, rich in resources, to secure full employment, a high level of production, and social security for the entire nation. These things are ours for the taking—by planning and only by planning. Second, with such a system in effective operation on a large scale elsewhere in the world, no great nation, not even the United States—and especially the United States since it claims to be a democracy—can any longer afford the depressions and social costs inevitably involved in abstention from planning. Today it is as irrelevant to debate whether to plan or not to plan as it would have been in 1800 to debate whether to use or not to use power-driven machinery. The only real issue now is who will plan, for what, and how.

Yet those with power to tell the American people what they should think are spending a great deal of money in telling us that we are

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returning to the "private enterprise system". Professor Hayek was brought to this country and richly publicized to spread his politically convenient diatribe against planning as the veritable "road to serfdom". The sustained campaign by big business against planning during the past three years has reduced much current discussion of planning to the primitive level of two small boys thumbing their noses at each other and shouting "Tis!", "Taint!" Americans quickly form a ring to enjoy a fight. Unfortunately, this is no small-time brawl, but an all-out power fight involving nothing less than more depressions, misery on a gigantic scale, and eventually an answer to the question as to who will control whom in democracy.

Barbara Wootton, whose *Plan or No Plan* is the best book yet written on national planning, has written this new book to remove the fuse from Professor Hayek's *Road to Serfdom* so that it can be carted off to the dump. This she effectively does; but, unfortunately her book will reach only about one in twenty-five of those whom organized business, hand-in-hand with the "best minds" who run the Book of the Month Club, persuaded to read Professor Hayek's book.

By the simple device of always assuming the best of laissez faire and the worst of planning, Professor Hayek reduced many of the issues which Mrs. Wootton must face to the elementary level of unscrambling a printer's pied alphabet. Her book suffers from this and also from her labored effort to persuade gently the same audience that approved Professor Hayek's thesis. The simple fact is that nobody can discuss the problem of planning effectively without being "radical", since the issue involved does not concern basically economic know-how but political power to do the straightforward things that planning requires.

At two points Mrs. Wootton rises clearly above these limitations: in her discussion of consumer sovereignty and in the two chapters on choice of employment and freedom of collective bargaining. She makes it quite clear that "A dictatorial government may prefer... [job placement by compulsion]; but that will be because it is dictatorial, not because it is engaged in planning." But if there is to be this complete democratic freedom in choosing and changing one's job, chapter 7 presents the best analysis the reviewer has seen of why it is not also possible to adjust wages by the present methods of trade-union bargaining.

In dismissing the distinction between "freedom from" and "freedom to", Mrs. Wootton misses a central point in planning. Freedom is not a product of anarchy, but of order; and order, within the individual personality and within society, depends upon structure, with

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the limitations that structure involves. Planning may not, therefore, treat the problem of freedom casually. The issue is squarely one between the personal "freedoms from" on which economic liberalism is built and "freedom for" things, like full employment, obtainable only at the price of invoking ordered structure in place of anarchy.

The author treads very gently in dealing with freedom of enterprise. She accepts the workability of a mixed economy, though as "a somewhat precarious affair." We are told that "there is no *inherent* incompatability between public determination of economic priorities and freedom of private ownership of industry." The pacific tenor of her book is reflected in her bland clincher argument: "It has not been proved by experience that this equilibrium cannot be maintained."

Here the unwary reader bites into the fat worm at the core of all these efforts to disguise the fact that capitalism is sure to get hurt by democratic planning. In fact, that is what democratic planning is all about. Mrs. Wootton sees no real issue between capitalism and socialism, and she calls "the socialistic-capitalist controversy . . . barren," an exaltation of principle over expediency, "a confusion of ends and means." She scoffs at those who want "socialization for its own sake"—as though anybody were so silly as to want that! It is only because there is a chance of getting things under socialized planning that have been demonstrated over and over again to be unobtainable under private capitalism that anybody bothers to talk about socializing the means of production.

Mrs. Wootton, who has been bold enough to write a book entitled *Lament for Economics,* avoids the term "capitalism", and she is naïve about the massive fact of vested power in capitalist society. She affirms again and again: "Some modification of attitude will be necessary." But *how,* Mrs. Wootton, with the present business control of press, radio and schools? Does she expect organized big business and all it stands for to be converted, or to die? She tells us that "politicians must have the courage to admit agreement." But these are not matters of rational agreement, but of institutions and the powerful persons who run them fighting for power and more power. The chapter on "Political Freedom" is sheer fantasy. Taking her cue from Hayek's insistence that the area of genuine agreement among men is so small that only those laws are tolerable that are so general that their impact on particular groups and individuals cannot even be foreseen, she quite rightly stresses the opposite point of the magnitude of the potential agreement among people as regards basic human needs. Then, forsaking the excellent point made in her earlier book on planning

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regarding the shortsightedness of one-person-at-a-time and one-generation-at-a-time awareness of the public interest (for example, in such matters as the conservation of natural resources), Mrs. Wootton here launches into an extraordinary series of statements: "At any time the *common* good consists only of those social objectives about which there is in fact genuine and general agreemeent." "Common agreement does not mean majority agreement," for "In a political democracy, common agreement exists [only] on those policies or objectives which every political party will accept." "Agreement [between political parties] should be *discovered*," and "It is much to be hoped that the attempt to explore the range of inter-party agreement will lead to calmer and clearer thinking . . . and to a much more experimental attitude." Meanwhile, only those things should be planned for on which all parties agree; and we are given a glimpse of a Blue Party campaigning for less housing and more education and a Green Party standing for more housing and a less rapid advance in education.

All this, from Barbara Wootton of all persons, is lamentable. The things for which power fights are not built up of tidy separate units labelled "ends" and "means" which can be segmented and agreed upon up to a final small point of diverging minor differences as to means. The central fact of the contemporary power struggle is that whole ways of running whole societies are juxtaposed, with all the details of each viewed, rightly or wrongly, as crucial to the survival of that particular whole system. It is this which forces today a total choice between either the road to big-business fascism or the road to democratic socialism.

Western liberal society needs straight talk about planning. This is particularly true for us Americans now when, as *Fortune* boasts, "We alone are going back to the private enterprise system." Talk about planning as "serfdom" is not only wrongheaded but a viciously wrong tactical disconcertion of public attention from the real issue. As Mrs. Wootton says over and over again, there are no economic obstacles in planning that need any longer balk the wit of men. The "stumper" problem is solely political, that is, whether those now holding arbitrary power will allow the people of a democracy to do what planning takes; and one may not sidle up to such a political problem. The lesson on this point to be drawn from Mrs. Wootton's book is that only those who are unafraid of sounding radical can help us to get ahead with thinking about planning.

ROBERT S. LYND

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The Road to Reaction. By HERMAN FINER. Boston, Little, Brown and Company, 1945.—xii, 228 pp. $2.00.

This angry and unhappy book is intended as an answer to *The Road to Serfdom* by Friedrich A. Hayek. Its guiding error is set out in its Preface.

> What I have tried to show clearly is a way through the jungle of fallacies which have aspired to the dignity of an argument on a grand theme.
>
> To do this the following chapters will show that Hayek's apparatus of learning is deficient, his reading incomplete; that his understanding of the economic process is bigoted, his account of history false; that his political science is almost nonexistent, his terminology misleading, his comprehension of British and American political procedure and mentality gravely defective; and that his attitude to average men and women is truculently authoritarian.

Did ever an author so clearly announce that he is preparing to fall into the fallacy of *ignoratio elenchi,* shifting the ground, or answering to the wrong point? Dr. Finer undertakes to contradict and overthrow a thesis—a perfectly proper objective—but he will do so by destroying one individual who maintains it—a perfect irrelevance. For Hayek is not alone in maintaining that the substitution of state planning for the mechanism of the market as a regulator of economic activity is a first step on the road to poverty and dictatorship, economic nationalism and war; after Hayek come others who cannot be disposed of, as Finer disposes of Lord Acton, by suggesting that they are "overwhelmed by a German education" and regard "communion with Rome as dearer than life" (p. 114).

In pursuing his irrelevant conclusion, Dr. Finer allows himself modes of proof which the schoolmen would hardly have considered legitimate. Many of his points depend on verbal ambiguities. Does Hayek say that his book is "political"? Finer (p. x) charges him with inconsistentency because he once said that he was not a "politician". Does Hayek recommend that the state guarantee to all "a given minimum of sustenance"? Finer comments: "that is to *give* it: not to make it an insurable proposition" (p. 197). Frequently he takes propositions asserted by Hayek with a qualification and argues against them as if the qualification had not been made. Thus (p. 135) he represents Hayek as being opposed to dealing with cases on their merits, when all that Hayek said was that every conflict of interests should be judged

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according to rules previously laid down. Again (p. 18) we are told that Hayek rejects the principle of full employment, but when we consult the reference we find Hayek speaking of "the one aim which everyone now agrees comes in the first rank: the conquest of unemployment" and asserting that "this must be the goal of our greatest endeavor"—though not the *only* goal. If Hayek is silent on a subject, Finer does not hesitate to speak for him. Hayek favors planning *for* competition as distinguished from planning *against* competition, but does not say exactly what planning *for* competition should be. "We must", says Finer, "supply what Hayek omits," and lays down a seven-point program of his own devising which he then proceeds to demolish (pp. 78-86).

An inadequate notion of confutation and a slipshod method of argument make this book, as an answer to *The Road to Serfdom*, inconsequential. It has, however, an interest of its own, as exhibiting the creed of a moderate socialist: capitalism is a failure and cannot be made to work; planning *can* be moderate; the character of planning depends on who plans and how; the manipulation of ration values and the supply of capital to government corporations are substitutes for competitive pricing. Unfortunately in supporting his own theses, Dr. Finer uses modes of proof fully as fallacious as those which he employs against Hayek. When his errors of simple inspection, observation, generalization, ratiocination and confusion have been discounted, little is left but a string of assertions which may, or may not, be true —the reader must supply his own proof or disproof.

Perhaps the most remarkable feature of this book is Dr. Finer's glorification of majorities. Fifteen years ago in his *Theory and Practice of Modern Government* he could write with seeming approval that "the legend of the sacredness of the majority is steadily being undermined". Today the case is different: "the power and the repute of the majority have been magnified, because it is the majority that fights world wars" (p. 16). He then lays down two propositions sufficiently at variance with the principles upon which the government of the United States is founded as to justify particular notice. The first is that the majority is always right; the second, that no limit should be placed on the powers of the legislature or, *a fortiori*, of the community.

"In a democracy right is what the majority makes it to be" (p. 60). This is an old notion with men who suddenly find themselves in a majority position. The reply to it was given by Gallatin many years ago:

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> In answer to the gentleman from Connecticut, with respect to majorities being always right, he said he himself was sometimes in a majority, and sometimes in a minority; and at the time he was speaking, he did not know in which he might be; but it might be, though he were in a minority, and must of course be bound by the majority, that he might be convinced that his opinion had been correct.

In criticizing Hayek's interpretation of the Rule of Law, Finer comes to his second point: there should be no checks on the majority. Here indeed he seems to abandon his view that majorities are necessarily right. He merely says that British and American majorities "have their own abilities and modes of thinking and procedures as part of majority rule" and can be trusted not to do anything so unwise or wicked as to vote a Hitler into office. He even lectures the majority on its responsibilities. Each citizen is to make his choices in such a way that the possibility of reversing the laws he wishes to be enacted is always open. The laws of planning must not be such as to subtract from certain political liberties. The majority must study economics. It will not be oppressive of large minorities, though it has a right to move ahead when the minority is small. And so forth. But what assurance has Finer that British and American majorities will in fact act as he would have them? Faith—and whoever has not this faith falls into a "thoroughly Hitlerian contempt for the democratic man."

The argument is plausible, and Finer is at liberty to maintain it. He goes too far, however, when he says that to limit the state is antithetic to the American doctrine of democracy. What is the Constitution but a bill of powers, unamendable by a mere majority, circumscribing the authority of the general government and directing it to particular ends? The very construction of that government contains numerous checks: the two branches of the legislature are mutual checks upon each other, and the president upon the whole; the independent judges are charged in a special manner with the guardianship of the Constitution and are expected to resist every assumption of power in the legislative and executive. Even in relation to the common welfare the powers of the general government are not plenary and indefinite but are divided with the state governments. Nor is this all. Behind the Constitution lie the so-called rights of men —inductions from the common law, not deductions from the Constitution, as Finer and some others would seem to suppose. The historical attitude of the American people toward these rights stands in flat contradiction to Finer's assertions. For, when they have excepted out of their grants of power those cases in which the government ought

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not to act or to act only in a particular mode, they have leveled their exceptions—not, as Finer's adopted countrymen have done, solely against the power of the Crown—but sometimes against the executive, sometimes against the legislature, and sometimes against the community itself, or, in other words, against the majority in favor of the minority.

To sum up: By arguing loosely, Finer has made it impossible for the reader to judge of the validity of Hayek's conclusions or even to have a very clear idea of what those conclusions are. He has, however, indicated his own beliefs as to the principles upon which the machinery of government should be based. He has presented us, in terms of majority rule, with "the fallacious picture of a beneficent despot—the blessings of absolute authority in good hands—which occupies the minds of sentimentalists, and plays into the hands of real oppressors."

LUCIUS WILMERDING, JR.

INSTITUTE FOR ADVANCED STUDY
PRINCETON, N. J.

Guaranteed Annual Wages. By JACK CHERNICK and GEORGE C. HELLICKSON. Minneapolis, The University of Minnesota Press, 1945.—ix, 146 pp. $2.50.

Union requests for a guaranteed annual wage have assured the subject of attention and analysis by the federal government. They have also resulted in considerable shifting of arguments and positions. Uncritical advocates of employment regularization and annual wages have recently tended to back water and to express cautions, as unions, antagonistic to experience rating in unemployment compensation, have suddenly made the annual wage a major demand in collective bargaining.

The authors of this book are not among those proponents of employment regularization who have, of late, developed a more cautious attitude. The volume is frankly offered as "a brief popular discussion of the Case for the Annual Wage." It is exactly that—well written, interesting, and fairly balanced, stating the cons as well as the pros.

The book is, however, unduly optimistic in spots. This optimism in part springs from the fact that the discussion is built around the experience of three firms (Geo. A. Hormel & Co., Nunn-Bush Shoe Co., and Procter & Gamble Co.) with the annual wage. These concerns are "in the consumers' goods industries where the possibility of major fluctuations in volume of production from year to year are minimal." Their products can be stored because style is not a signifi-

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cant factor, and, as oligopolists selling branded products, two of them were able to influence dealers' buying habits without too much fear of losing customers to competitors. The situation for firms in highly competitive lines with standard articles or for concerns in the capital goods industries is markedly different as the authors admit when they state that "there are industries in which little can be done toward leveling off the peaks and valleys of production." Yet nine pages previously, after discussing the vulnerability of investment goods industries to cyclical fluctuations, it was stated that there are no obstacles to the annual wage "that cannot be removed or circumvented with typical American ingenuity."

The authors recognize that an annual wage, like experience rating in unemployment compensation, would tend to minimize total employment, would have a dampening effect on investment, and would reduce the degree of flexibility of an individual plant. (Incidentally, on pages 82 and 102 they commit the common error of assuming that the tax rate under experience rating is graded "in accordance with the volume of employment occasioned by the individual firm.") But such adverse aspects are not stressed, nor is there an attempt to weigh each favorable and unfavorable factor and to work out a net balance. It is pointed out that, by making wages a part of overhead cost, the annual wage would increase the incentive for maintaining production, but surely such incentives already exist and it is in the industries having large overhead costs that the greatest fluctuations in employment have been experienced.

Ideas expressed concerning the business cycle are vague and rather superficial. It is not so much a lack of purchasing power as a decline in its rate of use that characterizes the depressional phase of the cycle. Steady incomes might cause an increase in the velocity of money at first but there presumably would be no continued or progressive rise in velocity, nor would the maintenance of consumption at a high level necessarily continue "to keep the investment goods industries producing at high levels." The authors fail to take account of the inherent instability in the purchase of capital equipment as explained by the acceleration principle. Furthermore, business men do not curtail their production merely because profits threaten to turn into losses, nor does stability of production in agriculture spring "from the fact that a large part of the farmer's costs are fixed."

Because their diagnosis of cyclical swings in employment leaves much to be desired, the authors' contention that the annual wage would reduce depression unemployment is not well reasoned; and, if cyclical swings in employment persist, would an annual wage guarantee cover-

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ing, say, half of the labor force of individual firms be socially desirable, as the book implies?

Although the authors provide few answers to the tough questions raised by proposals for widespread use of a guaranteed annual wage, they have succeeded in supplying an interesting and instructive introduction to the subject.

RICHARD A. LESTER

PRINCETON UNIVERSITY

International Trade and Domestic Employment. By CALVIN B. HOOVER. New York and London, McGraw-Hill Book Company, 1945.—xii, 177 pp. $1.75.

This concise book for the general reader, one of the research studies of the Committee for Economic Development, very ably and usefully outlines and evaluates the more important international economic problems facing the United States as they appeared in the spring of 1945. The reviewer has little quarrel with both analysis and recommendations.

Dean Hoover argues that we must assume that "the form of world organization arising out of the peace settlement will provide the necessary international security for a freer flow of international trade" (p. 5); and that on the basis of this assumption the United States should take the lead in a program intended to "facilitate a greater volume of interchange of goods and services to mutual economic advantage." He offers a seven-point program: (1) participation in the international monetary fund; (2) participation in the international development bank; (3) international agreements for the elimination or regulation of cartels; (4) reciprocal reduction of tariffs; (5) settlement of Lend-Lease on a non-disruptive basis; (6) adoption of a balanced merchant marine policy; (7) carrying out dynamic measures for maintaining a high level of domestic employment. The author firmly rejects the alternatives to international economic coöperation; but he fully recognizes the difficult adjustments and continuous assaults which will accompany the preferred program.

The reviewer is in complete agreement with Dean Hoover's emphasis (pp. 13-15) that success in the seventh element is indispensable to success in relaxing controls and stimulating international trade, and that no government which is confronted with a major depression is likely to refrain from imposing trade controls designed to increase domestic employment, regardless of the international consequences. Other books published or projected in this series give detailed attention to this seventh point.

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The United States government is actively pursuing a program containing all or almost all of Dean Hoover's points, which lends especial pertinence to his analysis. The International Monetary Fund has now been ratified, and there is no reason to doubt that the Reconstruction and Development Bank will be established. Respecting both institutions, the author correctly points out that *chronic* shortages of currencies due to *persistent* disequilibria in balances of payments cannot be solved by "exchange stabilization" or foreign loans unless "measures to achieve full employment in the major participating countries" are successful (p. 48). But he concludes that the Fund and the Bank are adequately designed to make their contribution to world revival and stability. He warns (see, e.g., pp. 58-59) that it is not in the ultimate national interest to base our international economic policy on a willingness to lend but a reluctance to import. British fears that this fallacy in American policy may recur have been conspicuous during the recent debate over the United States loan.

The author's recommendation that Lend-Lease be discontinued with the cessation of hostilities has been realized in government policy. His recommendation that we require repayment only for Lend-Lease items *not* consumed up to that time, and in any event that the weak balance-of-payments position of the debtor countries be kept in mind, apparently also is reflected in official policy if the settlement with Great Britain may be considered typical. Post-war policy respecting the merchant marine and the new war industries will involve a reconciling of conflicting interests: national security versus the cost of subsidy and the effect on our imports of goods and services. As for the complex task of reducing tariff and other trade barriers and of controlling cartels, Dean Hoover suggests multilateral negotiations (for which the government is currently preparing) but warns that freedom from depression at home and full use of our international bargaining power will be essential to success.

Frank A. Southard, Jr.

Cornell University

The Executive in Action. *By* Marshall Edward Dimock. New York and London, Harper & Brothers, 1945.—ix, 276 pp. $3.00.

This is the only book the reviewer has read which seems successfully to convey to the reader how executives actually behave, and the real nature of the things to be done in higher management. Professor Dimock, after years of academic work, has operated first as an execu-

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tive in the Bureau of Immigration and then as the chief of the Recruiting and Manning Organization of the War Shipping Administration. The combination of experience is a happy one. The author makes clear that there is no substitute for the knowledge acquired under the burden of responsibility. He writes in simple language, often pedestrian or colloquial. The book is made realistic also by frequent illustrations drawn from concrete experience in the RMO. Indeed, it appears to present a good history of the organization and administration of this difficult part of the Shipping Administration's task.

The author covers well the functions performed by an executive in an undertaking confined almost entirely to a personnel task. To those accustomed to the management not only of personnel but also of intricate technologies and of the construction and maintenance of complex plants, it will seem that some of the most important complicating factors of executive work are not taken into account nor are those relating to price-making which is a central function of the executive in commercial and in some governmental undertakings. This limitation of the field, perhaps, explains the author's view that executive action is really governed by a few simple principles (p. 180). This seems far from the truth and to be, in fact, refuted by his book as a whole.

As in most books concerning the subject, and in social science work rather frequently, this volume contains numerous generalizations, often far too broad and rather dogmatically stated as fact whereas they are only opinion. Even where they are inductions from experience, the experience of any one individual is too limited to warrant many of these statements. Difficulties of communication in this field still restrict the extent to which experience can be pooled. In the reviewer's opinion this does not seriously detract from the usefulness of the book except for chapter 15, "The Techniques of Delegation". Here the author labors with the concepts of authority and responsibility. He repeats with some uncertainty and qualification the widely current statement that "Responsibility and authority must be equal" (also pp. 9 and 45). This can be demonstrated to be inconsistent with the actual and necessary behavior of executives, if indeed there is any sense in a quantitative approach to these concepts in the absence of accurate definitions. To the best of the reviewer's knowledge, no one has as yet been able to give an adequate exposition of the relationship between responsibility and authority and of the meaning of delegation as a behavioral phenomenon.

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The greatest merit of this book is its demonstration of the organic, as contrasted with mechanical, nature of organizations and of the evolutionary process of adaptation as the dominant aspect of executive behavior. It is this, as Dimock points out (p. 216), that makes most executives inarticulate about what they are really doing. It explains why management and administration are so obscure to people without experience in this field. Professor Dimock has performed a needed service in making this so clear.

The last three chapters of the book present an able treatment of the problem of bureaucracy, showing that bureaucracy is an indispensable function of complexity and size. Professor Dimock is rather pessimistic concerning the outlook in a world trending toward centralized states, international government, and mass production. There is a good deal of justification for this attitude, although he somewhat overemphasizes it and understates the possibilities of curbing the most undesirable features of bureaucratic operation.

CHESTER I. BARNARD

NEWARK, N. J.

The Killing of the Peace. By ALAN CRANSTON. New York, The Viking Press, 1945.—xii, 304 pp. $2.50.

This volume was judged by the book review editor of the *New York Times* to be one of the five best non-fiction titles of 1945. The author, who is himself a journalist without the conventional historical training, has been widely praised by fellow untrained journalists as having produced an historical treatise to end historical treatises on the American fiasco of 1919. Beyond a doubt he has written a breathlessly readable book, with all the drama and suspense of a "whodunit". The characters seldom *say* anything: they "cry", "bluster", "gloat", "fume", "scream", "howl", and "bellow". The narrative is presented in blocks of episode, usually a paragraph or two long, each with a date and catchy headline. This technique enables the author to omit the uninteresting days, or the things that do not support his thesis. It also enables him to jumble chronology to make it fit, and to use the *post hoc* fallacy by the juxtaposition of incident. Thus we have a flash of "Lodge & Co." doing something bad, and then a flash of Mussolini and Hitler doing something bad the very next day, inferentially because of the Senate.

Aside from numerous errors and half-truths, Mr. Cranston falls into just about all the traps that await the tyro in historical research. He uses no manuscripts, though the Wilson and Hitchcock papers are

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a veritable gold mine. He also fails to use a considerable list of published primary and secondary works, including the valuable Houston diary. He uncritically accepts newspaper gossip and the verbatim memory of old men, some of them slippery characters like Jim Watson. He does not recognize that a quotation of a biased opinion is not necessarily proof of a fact, and that one can quote a "crackpot" to support almost anything. He passes off some of his guesses, particularly as to obscure human motives, as established facts. He supplies lurid details from his own imagination when they do not appear in the sources, and in a few instances he does the same thing with dates. One reason why the book reads like fiction is that parts of it are fiction.

Except for the novel technique of presentation by isolated blocks of incident, the author has little that is new. He kicks the corpse of Lodge about right lustily, in the approved fashion. His account is not sober history at all, but a prosecutor's brief, with all the one-sidedness, exaggeration, and suppression of unfavorable evidence that we expect of the overzealous district attorney. Yet the author, perhaps naïvely, admits damaging testimony. His appendix shows that on both occasions the treaty with reservations was defeated by Democratic votes. At one point he gives away most of his case when he notes that Lodge permitted a second vote on the Treaty with reservations, because he wanted Wilson to kill the pact in the White House (p. 230). If this is true, then Lodge was trying to get the Treaty through the Senate, which is the opposite of what Mr. Cranston spends much time in trying to prove.

The author proceeds on the following assumptions, all of which the reviewer regards as incorrect or highly questionable: that the Treaty was without vitally serious defects; that arguments against the League were predominantly specious; that the irreconcilables were generally insincere in their opposition; that the Senators who defended their well-established prerogatives were reprehensible; that only Republicans played politics; that the Lodge reservations would have nullified the entire Treaty; that the reservation to Article X would have eviscerated the Covenant; that the Republican and Democratic reservations were poles apart; that the principal Allies would certainly have rejected the Lodge reservations; that Lodge would have piled on more reservations if Wilson had accepted the originals; that Lodge made no concessions to Wilson's point of view; that the Lodge reservations commanded no popular support; that Taft was little short of a criminal because he decided that compromise was better than complete defeat of the

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Treaty; that the American people *became* isolationist as a result of Lodge's machinations; that Wilson himself had nothing to do with the final impasse; and that the League, with American membership, would almost certainly have averted World War II.

History cannot be considered in a vacuum, especially a period as complicated as this one, and Mr. Cranston proceeds without any adequate recognition of the larger political, international, psychological, economic, and other factors involved. The result is gross oversimplification. People in general do not like hard thinking, and it is convenient and satisfying to hang everything on a George III, or a Kaiser, or a Lodge. Mr. Cranston feels that he has a mission to perform: to show how a little group of wicked men killed the last peace, so that we will not permit another little group of wicked men to kill the next peace. If all we propose to do is to work for the elimination of a few isolationist Senators, then we had better start building bigger and better bomb shelters right now.

THOMAS A. BAILEY

STANFORD UNIVERSITY

Federalism and Regionalism in Germany: The Division of Prussia. By ARNOLD BRECHT. New York; London, Toronto, Oxford University Press, 1945.—xvi, 202 pp. $2.50.

The Regions of Germany. By ROBERT E. DICKINSON. New York, Oxford University Press, 1945.—ix, 175 pp. $3.50.

To the very end of the Weimar Republic, the reform of the federal system was a major issue in Germany. The heart of the problem was Prussia, disproportionate in size and political and economic importance. How to solve the problem was a question frequently raised and studied before Hitler came to power. A democratic solution—that contained in the recommendation of the Reform Committee of 1928-1930—had become a Cabinet Bill by 1932. It appears safe to assume that it failed to become a law only because of the internal situation that hoisted Hitler to the office of Chancellor. A totalitarian, unconstitutional solution was then forced upon the Reich, and it was a solution that abolished federalism and state rights. Deprived of all autonomous rights, the states remained only as administrative units.

Both of these books are compact but important studies. They deal with the question of creating a federal Germany and the new units into which Germany perhaps will, or logically might, be divided. Brecht accents regional distribution of political opinion, reform proposals

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under the Weimar Republic, and the administrative and related changes under Hitler; Dickinson portrays the salient aspects of the "natural" provinces into which Germany can be logically divided on the basis of regional needs and common socio-economic, as well as cultural and historical, developments.

Brecht's book is fundamentally an historical account especially of the question of German federalism and regionalism since the turn of the century. To his task Brecht brings unusual competence, for he served as Prussian representative on the official Reform Committee of 1928-1930, composed of members delegated by the German federal and state governments, which exhaustively considered especially the central question of the division of Prussia. The Committee proposed, among other things, the abolition of Prussia as a single unit. (The recommendations of the government are presented, for the first time in English, on pages 171-181.) In this account are included a revealing and instructive contrast of federalism in the United States and in Germany; a description of the manner in which federalism operated in Germany before Hitler; the number of territorial reorganization plans that were devised; the last attempt at a constitutional solution; the course of regionalism after 1933; and the centralization which the Nazi régime carried to lengths greater than any previously recorded. As might be expected, one of the recommendations of the author is that Prussia be divided, and "its sections become direct constituent units of federal Germany." The mastery of the complicated subject disclosed in these pages is impressive, and the exposition, fortunately, is most readable. Ten maps, nine appendices and several tables add greatly to the value of this admirable study.

While federalism was wiped out in Hitler's Germany, regionalism still remained. After 1933 a good deal of effort was expended on the attempt to deal with the problem of merging Reich and regional agencies both old and new. Dickinson's study furnishes an instructive description and discussion of the "natural" provinces that regionalism rested upon—"natural" in terms of geographical features and economic development and interests. Eleven such provinces are recognized by Dickinson; some of them correspond roughly to "existing" political units, but others diverge markedly from them. Agreeing that the question of "Prussia versus the Rest" should be solved by "crushing the unity of Prussia", Dickinson holds that the basis of the new political units of the Reich is to be found, not in historical or existing divisions, but "in the natural entities of modern activity, interests and organization that are inherent in the structure of society." These, he believes, afford the widest basis for measuring the homogeneity essential

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for an "effective political unit". Dickinson's detailed essays on the various areas represent the results of careful scholarly endeavor and might well be put in the category of "must" literature on Germany. Twenty-nine maps add greatly to the usefulness of Dickinson's contribution.

These two books are important. Written apparently while the war in Europe was still going on, they are timely as well. There seems to be pretty general agreement that the problem of Germany has in some ways become more complex since the surrender of May 7, 1945, and that upon the solution of the problem depends a good deal of Europe's fate in the years to come. Be that as it may, Brecht and Dickinson have placed in our hands two studies that should prove most helpful to statesmen as well as scholars—providing, of course, that policy makers are able and willing to make decisions on the basis of *expertise* such as these works impressively illustrate. They should be read by every student who seriously attempts to understand the Germany that went to war in 1939 and now pays the penalty of Hitler's despotism.

JOHN H. WUORINEN

Italy and the Coming World. By DON LUIGI STURZO. Translated by Barbara Barclay Carter. With an Introduction by Sumner Welles. New York, Roy Publishers, 1945.—xiii, 303 pp. $3.50.

In making notes for this review, the adjectives sane and reasonable appear with high frequency; indeed they constitute the best characterization of the book as a whole. Nor should this be a cause for surprise, for the author has spent a lifetime in consistent defense of high principle applied to the necessities of political life. No startling revelations or departures will be found here, for Don Sturzo has no occasion to modify his outlook in the light of the war and its aftermath. Thus he does not advocate unequivocally (as has incorrectly been said) the abolition of the monarchy. But neither does he uphold it, being content to ask that Italy abide by the freely expressed wish of its majority.

On the more important issue of democratic institutions, Don Sturzo has much to say that is to the point, not for Italy alone, but for Europe as a whole (much of the book, in fact, does not deal with Italy). His membership in the Catholic clergy does not prevent his seeing the mistakes of the Church and its adherents. This approach makes it possible for him to express on the mooted subject of Russia, for example, comments at once outspoken and understanding; his criticism

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of the UNO is likewise well taken. There are points where compromise is impossible, for to cut a principle in half has upon it the same effects that Solomon's judgment would have had upon the child. How the fundamental and irreconcilable issue between democracy and totalitarianism was beclouded as a result of the German attack on Russia is well brought out—and faced.

It is significant to have a staunch defense of the fundamentals of democracy coming from such a source. As Don Sturzo puts it, "liberty and democracy must today be reviewed in the light of Christianity even by those who are without religious faith" (p. 177). Many will be suspicious of the Catholic connection, and the case of the French Catholics and the aims they pursued after 1870 inevitably comes to mind. It is all the more interesting to observe that a broadly liberal Christian Democratic Party of precisely the sort that Don Sturzo advocates, the *Mouvement Républicain Populaire*, has just emerged as one of the leading French parties. What use, if any, the Church may seek to make of such parties, time will tell.

On the subject of fascism in Italy, Don Sturzo is clear. His statement that "Hitler alone without Italy could not have attempted a world war" (p. 47) is nearer the mark than the one made in the introduction by Sumner Welles that "Italy can never become, for geographical, economic and racial reasons, the spearhead of any future threat to peace" (p. ix). The difference between German and Italian power has caused many to read mistakenly into it a difference between the ideologies of the two régimes. Perceiving the similarity and drawing the correct conclusion that it calls for atonement on Italy's part, Don Sturzo makes a plea nevertheless for distinguishing between the people and the régime in Italy. Perhaps the most discouraging aspect of the situation is that people like Don Sturzo, relying on reasonable persuasion, are apt to find themselves in the position of asking at the same time too much from their own peoples and not enough to satisfy the victims of their peoples' aggression.

But such criticisms are minor in view of the fact that Don Sturzo goes a long way in allowing for and understanding other peoples' misunderstanding of Italy; and on the most pressing issue of reconstruction, enlightened reasonableness again characterizes his outlook. Here, also, he finds no need to revise the program he has consistently advocated for Italy through the years: acceptance of a position commensurate with her power, with stress on her traditional cultural contribution, and the eschewing of inflated dreams of grandeur. The chapter on "Education and Re-education" stands out as one of the best.

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If there is a weakness in all this, it lies in the stress on time; but that is inherent in the situation. In our age of atomic energy, time may be short, as our scientists keep somewhat excitedly telling us. But human society with its passions will not prove amenable at once to scientific direction of its organization; the multitude of its problems is bound to be slow of solution. That is why a book such as the present one has value, and one can only wish that Don Sturzo's calm sanity of approach were applied to the Italian and to other problems as well.

As a minor dissenting note, it is regrettable that the standards of translation and editing have not been higher.

RENÉ ALBRECHT-CARRIÉ

BARNARD COLLEGE

Russia and the Western World: The Place of the Soviet Union in the Comity of Nations. By MAX M. LASERSON. New York, The Macmillan Co., 1945.—xi, 275 pp. $2.50.

Russia and the Western World develops Max Laserson's earlier study of Soviet foreign policy into an attempt to evaluate " the place of the Soviet Union in the comity of nations ". By this phrase Laserson means the rôle Russia must and will play in the development of the coming " synthesis between the balance of power system and a universal League ". For Laserson the vital question is, therefore, the direction which Russia will choose, or be forced into, in the age-old " polarity " between " Westernization " and " Slavophilism ". Not for the first time has Russian force penetrated deep into western Europe, with all its profound implications both for the internal development of Russia and for the course of international relations. Now, as in the days after the fall of Napoleon, the Russian authorities are faced with the problem of reconciling foreign and internal policy.

The author does not essay a thorough review of the problem. He draws no full-length portrait of Russia in terms of geography, economy and social structure, but is content to dismiss Harold Laski's concept of the " egalitarianism of Soviet society " as a projection of alien views which have no meaning under the Soviets. Instead he concentrates on certain constitutional, legal, historiographical and diplomatic manifestations of his underlying thesis that the Bolshevik revolution was, in the perspective of its original objectives, a total failure. His concept is of a Russian Revolution which, though without change of its guiding personnel, has undergone a Thermidorian reaction.

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The author is conscious that similarity of ideology does not necessarily make for, and that diversity of ideology does not prevent, international friendship. Yet the purpose of his book is to discover "the points of similarity and of difference between the Soviet Union and the United Nations of the West. . . the factors, if any, making for closer relations between the Soviet Union and the western world." One may be somewhat skeptical of preliminary observations such as that "A common lack of political romanticism, although seemingly a purely ideological phenomenon, is one of the most important bridges between the Anglo-Saxon world and the Russia of today." Nevertheless the picture of transformation of the Soviet régime from what it originally aspired to be into an intensely nationalistic and self-centered society is compellingly drawn. It may be curious to find an assortment of instances, ranging from the shifting attitude toward marriage and the family to changes in the military oath, huddled into a chapter entitled "Factors of Rapprochement", but the underlying idea is sound.

Discussion of the Constitution and its freedoms leads to the conclusion that, despite a "flexibility" that reflects the weakness of the individual *vis-à-vis* the state and despite the total absence of self-government, the 1936 Constitution may be construed to reflect a departure from earlier Soviet constitutions in a way that does not preclude its ultimate replacement by something in the nature of democracy. The federalist aspects of the constitutional structure are singled out for special scrutiny, and the reasons for the establishment of union-republic commissariats of foreign affairs and defense are carefully analyzed. Though the author does not say so, one is left with the impression that Soviet adoption of a policy of "Kicks with kindness" toward the nationalities represents another "factor of rapprochement" with the Anglo-Saxon world.

The "rehabilitation of law" reflected the fact that the Soviet state had acquired stability. The difficulties in the way were great; for it was necessary to "break the hold of legal nihilism on the Russian spirit" and at the same time to combat, or evade, early Leninist ideas based on the doctrine of the withering away of the state. The triumph of the law as a recognized regulator of behavior is said to "spell the defeat of the ideocratic force of early Bolshevist terminology, with its obligatory dialectic of materialist dogma in Soviet social thought including jurisprudence."

Of special interest to historians will be the section devoted to the metamorphosis of the teaching and writing of history. Initially there

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was a lack of Marxist historians; " it was much simpler to replace the subject matter than to replace the experts and teachers." Soon restored to its place in the curriculum, history existed for a time in a rarefied and definitely unglamorous condition. However, the rise of Nazi Germany and the consequent stimulus to Russian national patriotism effected the most radical departure from early generalized sociological notions, with the result that " the Soviet Union has revised its old concept much more than did the Western democratic powers, and particularly the Anglo-Saxon countries."

The longest section of the book is devoted to a discussion of Soviet foreign policy, tracing it from " the early years of intransigence " to " militant pacifism ". The zigzags of policy, which to some suggest " the cleverness, maneuvering, or even diabolical shrewdness " associated with the name of Machiavelli, are attributed by Laserson to less spectacular, but more potent, causes. " In its initial romantic and heroic period Soviet Russia adhered consistently to a doctrine independent of geographic latitude and national hues. As a state, however, the U. S. S. R. has had to reckon with the mentality of its own heterogeneous population, with environment—its neighbors, or allies during the Second World War—and with political orientation. And it had to determine within which constellation of powers it belonged." Ultimately, " the national interests of Soviet Russia became the only indicator for the basic lines of political demands, whether neighbors or more distant countries were concerned."

The breadth of view and keen sympathetic insight that characterize Laserson's work are unfortunately marred by the fuzziness of many passages, arising perhaps from undue haste in the writing. Yet the book will well repay careful scrutiny by the reader who wishes to see in perspective the ideological evolution of the Soviet régime in specific characteristic phases.

JESSE D. CLARKSON

BROOKLYN COLLEGE

Woodrow Wilson and the People. By H. C. F. BELL. Garden City, Doubleday, Doran and Company, Inc., 1945.—viii, 392 pp. $3.00.

One facet of the tragedy of Woodrow Wilson consists in the distance which separated him from his fellow citizens. While he mystically believed that he was somehow " connected with my fellow men ", their relationship to Wilson did not apparently involve the assumption of an equivalent bond. Even at the peak of his popularity he was not

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sustained by the kind of personal identification and emotional attachment which linked the mass of the American people to Franklin D. Roosevelt. The declared purpose of Professor Bell's sympathetic and readable biography is to bridge the gap between Wilson and the people—to bring him "closer" to the ordinary American of today.

Professor Bell contends that Wilson's "sustained effort to establish and maintain contact with the people" was basic in shaping his "public life". The evidence in support of this assertion is skilfully and effectively presented in *Woodrow Wilson and the People*. But the very nature of the thesis, the character of the proof it demands and the subject himself all conspire against the affirmation of its validity. There is ground for maintaining that too much of Wilson's dedication to serve his fellow men grew out of the conviction that he was thus fulfilling God's purpose. Too little was the product of an adequate understanding of human beings and their needs. Wilson himself suggests that a conception of service to man born out of Calvinistic righteousness may well conflict with some of the implications of the democratic ideal. The latter calls for a conception of service rooted in its own system of morality.

In periods of crisis, remarks Professor Bell, Wilson always drew upon two sources of strength, "faith in God and the people". Could it not also be said that his faith in God sometimes seemed to stand between Wilson and the people? Was he not given to act as the instrument of God's will and assume the rôle of preceptor to the people? Wilson was persuaded that in his visions there were harmoniously resolved the spoken and unspoken desires, aspirations and dreams of the people. He regarded the ability to accomplish this feat as the mark of genius which distinguishes the great popular leader. He apparently believed in his own ability to recognize in the many "voices of the nation . . . a single vision," and in his gift to "speak what no man else knows, the common meaning of the common voice." That mystical notion bears an unhappy resemblance to full-blown totalitarian theories of leadership, even though Wilson's purposes and behavior never lost their democratic character.

The author's admiration for Wilson as a public figure and an engaging, warm-hearted individual is never disguised, but it has not resulted in an uncritical biography. Professor Bell calls attention to Wilson's "inveterate pride" as "the weakest spot in Wilson's superb armor", because it cost him dear in friends, multiplied his enemies and sapped his strength. He knows that because Wilson demanded from his friends "not only their hearts, but sometimes their convictions, too," he was less well served by advisers than he should have been. He

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recognizes Wilson's reluctance to face realities when they were in conflict with his purposes, and he points to the inadequacies as well as the dynamism of Wilson's idealism.

For all of Professor Bell's judicious criticisms, his portrait of Wilson remains one of heroic dimensions. He believes that "no President in our history. . . has entered the White House with clearer ideas of what he wished to do, and how he proposed to do it," and holds that the Wilsonian pattern for world settlement was not only historically but also prophetically sound. Finally, he has the highest praise for Wilson's "inveterate courage, his readiness to sacrifice political prospects, health and even life itself, so long as he might execute his mission as America's mouthpiece and generalissimo in the conduct of world affairs."

HENRY DAVID

QUEENS COLLEGE

The Dies Committee: A Study of the Special House Committee for the Investigation of Un-American Activities, 1938-1944. By AUGUST RAYMOND OGDEN, F.S.C. 2nd Revised Edition. Washington, The Catholic University of America Press, 1945.—vi, 318 pp. $3.00.

Martin Dies. By WILLIAM GELLERMAN. New York, The John Day Company, 1944.—310 pp. $3.00.

Mr. Martin Dies of Texas, formerly of the House of Representatives, appears to have been well supplied with conviction of righteousness, and during his famous days he never lacked for eloquent supporters of his conduct and beliefs. He has now fallen among scholars, and it becomes clearer that a reasoned vindication of his career, if there is to be any, will require more than proof that those whom his Committee investigated were or were not guilty of "un-American" activities. An earlier study, by Professor William Gellerman, *Martin Dies* (1944), viewed its subject unsympathetically, and he does not appear to better advantage in August Raymond Ogden's *The Dies Committee.* The latter is much the superior study. Where Professor Gellerman confined himself almost entirely to the published hearings of the Committee, and found evidence, as it were, to draw up an indictment of its Chairman, Brother August Raymond has seen his subject in perspective, and treated it historically and with detachment. This is not to say that the former volume lacks value. It can be read most

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profitably in combination with *The Dies Committee.* Professor Gellerman has an interesting chapter on Martin Dies, Sr., whose services to Congress throw light on the career of his son. The attitudes and deeds of the younger Dies are analyzed in the light of a philosophy of freedom which merits repetition. The reader will find useful the recapitulation of testimony and the long quotations from the hearings of the Special House Committee, and other data.

The Dies Committee, though it, too, manifests a close acquaintance with the Committee hearings, is less dependent upon them. A chapter on congressional investigations in general is followed by a survey of earlier legislative inquiries into bolshevism and its American protagonists. The author then develops the history of the Dies Committee, not as a static instrument of government, but as one which has exhibited changing characteristics. Where the Committee has been unjustly accused, Brother August Raymond corrects popular impression: he demonstrates, for example, that the Committee never did attempt to pin the label of Communist on Miss Shirley Temple; and he avoids the attitude of Mr. George Seldes, whose *Witch Hunt* (New York, 1940), as he drily remarks, "seems to proceed on the erroneous assumption that all that was done by the Dies Committee was wrong" (p. 209). But though the author seeks the truth conscientiously he finds no escape from the conclusion that "the history of the Committee reveals it to have failed in its essential purpose," and that it stands "as an example of what an investigating committee should not be" (p. 296).

There seems no reason to doubt that the Dies Committee (though not all its individual members) at one time or another used its power as an anti-New Deal bludgeon; gave more attention to the subject of communism than to that of fascism; employed a procedure with witnesses which would have been permitted in no American court of law; was incompetent, irrelevant and immaterial; issued reports which were political weapons; and was, in phases, little more than a rostrum for its energetic Chairman. Un-Americanism did, at one point, receive a definition worth reproduction (p. 177): "By un-American activities we mean organizations or groups in the United States which are directed, controlled, or subsidized by foreign governments or agencies which seek to change the policies and form of government of the United States in accordance with the wishes of such governments." Unfortunately, little effort was made to apply this definition consistently or with a conscientious disregard for personalities or political groups. Mr. Dies complained, in a passage of his *The Trojan Horse*

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in America (New York, 1940), that he had been condemned for denouncing as a Communist a labor leader on circumstantial evidence which those who upbraided him would have found satisfactory if the person involved had been charged with fascism. But the illustration cited by Mr. Dies only demonstrated his sensitiveness to the opinions of Communists and their sympathizers; it is instructive that he should not have been more deeply concerned with the constitutional rights of Americans to such opinions and associations as pleased them most, and with the nature of legal evidence calculated to establish disloyalty to this country.

As an instrument for investigation the Dies Committee failed. Yet it should be observed that the Committee was an effect and not a cause. Those who despised American democracy might well admire it as a creation of their own—as a judgment upon themselves. Year after year the Gallup Poll showed a majority of the public as favoring its continuance. Congress granted it impressive sums to pursue its course. For where else could the common citizen, with no conscious attachments to either the fascist or communist camps, but with some regard for what communism or fascism might mean to him, catch an inkling of their "under cover" manifestations? The false cultural and political "fronts" which were erected to catch the unwary were hardly to be discussed candidly by those sympathetic to their aims. The Dies Committee, to be sure, not infrequently exploited, and for unworthy purposes, information and purported information with respect to "transmission belts" for dissident movements. But who would deny that they existed? The genuine liberal, anxious to aid individuals falsely accused of disloyalty, willing to defend their right to think unpopular thoughts, was too often deterred by being unable to determine just what an alleged radical or "fellow-traveler" did believe or had done.

This revision of *The Dies Committee* was completed under the impression that the murky record of the Committee was closed, several of its most aggressive members repudiated by their constituents, and the subject given to history. By a sudden *tour de force*, however, the Special Committee on Un-American Activities was given another lease on life. It deserves continued attention, if only for the light which it sheds on the function of the investigating committee in a democracy.

LOUIS FILLER

WASHINGTON, D. C.

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America's Stake in Britain's Future. By GEORGE SOULE. New York, The Viking Press, 1945.—vii, 232 pp. $2.75.

Although a book dedicated to the advancement of Anglo-American economic relations would be important at any time, its value is greatly enhanced by the trend of contemporary events and opinion. Certainly the fiery debates which will undoubtedly be stimulated, in the Houses of Parliament on one side of the Atlantic and in Congress on the other, by such debatable issues as the recently announced plans for financial assistance to Britain and for promotion of world trade should become more intelligible to the lay reader if he has previously absorbed some of this volume's basic tenets.

Devotees of the *New Republic,* however, will find little that Mr. Soule has not already conveyed in articles regularly contributed to its pages. It is well to remember, too, that he is writing as an American for a "native" audience, and interesting to speculate upon how a Briton's account of the at once intimate and intangible relations of his country and ours would differ from Mr. Soule's in both detail and emphasis. Perhaps it is not too much to ask that some Englishman come forward to discuss adeptly "Britain's Stake in America's Future", an equally moot subject at the moment and for the future.

Admittedly what Britain wants more than anything else is an America as prosperous and as free from periodic depressions as possible, but there are many more subtle requirements which cry out for elucidation by a competent spokesman. These involve the necessity for America's devotion to a program of full employment; the expression of a real desire to encourage multilateral trade and to free dollars for world use; and the emphasis of the current trend toward attaining a happy combination of free enterprise and state planning in order to increase domestic and international prosperity.

The volume at hand answers many of the more salient questions concerning Britain's present financial position, her potentialities as a world Power and a world trader, and her needs in rebuilding her home economy. Careful perusal of its main thesis, namely, that Britain and America must continue the economic collaboration initiated for purposes of war into the far more complex period of peace, leads to the conclusion that this coöperation must end in the adoption by both countries of a policy aimed at maintaining full employment. If these two great English-speaking nations were to pursue similar aims in this matter, they could also agree upon fiscal and monetary policies, ex-

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change stabilization, international investment, control of cartels and monopolies, and other controversial subjects.

Those Americans who combat all types of aid to Great Britain solely on the ground that we must not finance socialism should be required to do a daily stint of "Souleism" until they can substitute concrete knowledge of British affairs for prejudice concerning them. One of the greatest contributions made by this book is its concentration upon the conservative elements of the Labor Government, elements far too little discussed by the press here, and especially upon its declared desire to alleviate blatant inequalities of existence through full employment, universal medical service and social insurance, increased educational opportunities and improved housing.

Mr. Soule has made a more than adequate presentation of the desperateness of Britain's position in finance and trade. Because of the war, she has sacrificed overseas wealth totaling almost $17 billions, and in 1946-1948 the deficit in her balance of payments will approximate $5 billions. As her pre-war national wealth has been reliably estimated at about $120 billions, at present prices, it can readily be seen that Britain has lost nearly one quarter of her national wealth. It is crystal clear, therefore, that we Americans hold the key to most post-war financial and economic riddles now confronting Britain and the major share of the world. This book should prove indispensable to all individuals who are concerned with the conception of a peacetime policy which will encourage the empirical methods now emerging in all parts of Britain.

MARY E. MURPHY

HUNTER COLLEGE OF THE
CITY OF NEW YORK

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La Nation—Vol. I: Sociologie de la nation; Vol. II: Le Nationalisme et l'ordre de droit—by J.-T. Delos (Montreal, Editions de L'Arbre, 1944; 100, 220 pp.) aims at a radical separation of the concepts of state and nation. In the course of this, Delos attacks the heresy of our times: the totalitarian nationalism which, stemming from biological and racial theories, has succeeded the era of the liberal-democratic national state. Hegel again looms large in the ancestry of totalitarian nationalism; but the author is obliged to recognize certain "transformations" which cast doubt upon that ancestry. Against the background of his extensive criticism Delos' positive contribution appears rather fragmentary. A spiritualized, to a certain extent de-historicized, concept of the nation is tucked away in the realm of culture and civilization. Both culture and civilization are conceived as private institutions. In the same vein the rights of nationality are construed as personal rights, not attributable to membership in a territorial unit. The aim of this process of reduction and of whittling down is laudable: the preservation of national values by erection of a dam against state oppression. But the results of the endeavor are meager on both the theoretical and practical level. The actual state-nation relationship is defined as follows: "Only the principle of public order is able to give to this whole structure [the nation as sum total of private institutions] the formal organization which would respect its liberty and its destiny; but here we have arrived at the threshold of the concept of the state; that of the nation would not suffice" (I, 179). With such a definition Delos scarcely transcends the form-content scheme of his master, Maurice Hauriou (*Précis de droit constitutionel*, 1929, p. 83), thereby jeopardizing his own efforts toward a separation. On the practical level the question arises, whether this separation will help national minority groups to preserve their existence. Will the Powers of the day be more friendly disposed toward national minorities, if their case is presented under the label of the inalienable right of self-expression of the individual rather than under the dynamite-laden concept of national group rights with all its political implications? This reviewer doubts it. Once the juggernaut state machinery of modern society is set into motion, the march of its uniform social and political institutions is arrested neither by the one nor the other set of rights. At best, as in the U. S. S. R., it eliminates both individual

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and national group rights by superseding the factual basis on which our traditional state-nation configuration rests. At worst, as in the belated apotheosis of the pure national state in the other countries of eastern Europe, it solves the problem by a surgical elimination of minorities.—Otto Kirchheimer, Washington, D. C.

In his books on *The American Character* and *The English People* Mr. D. W. Brogan proved himself a shrewd and persuasive student of a subject full of pitfalls and beguilements, the psychology of peoples. He exhibits the same characteristics in his little book, *The Free State: Some Considerations on Its Practical Value* (New York, Alfred A. Knopf, 1945; 130 pp. $2.00). It is in large measure a presentation of two pictures, one the free state as he finds it mostly in England and in the United States, the other the servile state as he finds it mostly in Germany. The pictures are drawn with skill. Mr. Brogan is a man who wears his learning gracefully, without pedantry or clumsiness. He writes with discernment and with a sense of style. His account of what Nazism means is admirably done, and is lighted up with flashing summations. Here is one, for example. "Tyranny, the *Führerprincip,* is the mule of politics, without pride of ancestry or hope of posterity." If there is a criticism to be passed on the author's analysis it is that he does not sufficiently realize how the conditions under which a people lives have a considerable influence in determining its virtues and its vices. There is a trace of complacency, for example, in some distinctions Mr. Brogan draws between the ways of Englishmen and the ways of "continentals". We are tempted to feel that he is a trifle too much at ease in his Zion. But this tendency is only an overtone that detracts little from the value of his book.—R. M. MacIver.

Between the date of the preface and the publication of the American edition of Sir William Beveridge's *The Price of Peace* (New York, W. W. Norton & Co., Inc., 1945; 160 pp. $2.00) the question of peace has undergone a radical evolution. The atomic bomb has posed the question of power in a new and awful fashion. The old terms were none too adequate to the old situation, but now they seem merely pious. Last April, the price of peace according to Beveridge was a willingness to arbitrate or to accept regional arrangements. Today two great Powers, two different ways of life, face each other like the last remaining competitors in a battle royal with the prize of world domination glittering in their eyes. The price of peace has gone higher: the dissolution of the existing state system by the costly

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victory of one Power, or its displacement by the creation of a new comprehensive political unit. It is in some way a comment on the age and on our approach to the problem that so solid, so comprehensive, so positive an author as Beveridge is in the social field should have in the field of politics nothing to offer us but a pamphlet. Writers and readers of the adequacy of those who wrote and read *The Federalist* are sadly wanting.—F. L. NUSSBAUM, The University of Wyoming.

Not the least of administrative accomplishments in the United States during World War II was the great expansion of the civil service to enable it to meet emergency demands. Leonard D. White has brought together accounts of most aspects of the matter in *Civil Service in Wartime* (Chicago, University of Chicago Press, 1945; viii, 253 pp. $2.50), a volume consisting of lectures delivered by various participants in wartime personnel administration at the University of Chicago. Treatment of a problem by the symposium method often leaves gaps in particular phases because of the unavailability or disinclination of potential contributors, but Professor White has succeeded in organizing a collective analysis which furnishes at least an introduction to each of the significant and novel aspects of personnel practice in wartime. Professor White in his introductory essay on "The Scope and Nature of the Problem" outlines the problem of wartime recruitment and sketches the major changes in the rôle of the Civil Service Commission. Herbert Emmerich describes "The Search for Executive Talent" with emphasis on the dollar-a-year men. M. H. Trytten writes on "The Mobilization of Scientists" in an essay containing some revealing insights into the management of scientific research, while John McDiarmid deals with "The Mobilization of Social Scientists". Leonard Carmichael tells of the operations of the National Roster of Scientific and Specialized Personnel and incidentally relates some fascinating examples of how Hollerith machines easily solve the problem of the needle in the haystack. Arthur S. Flemming, of the Civil Service Commission, chronicles the recruitment of personnel for Army and Navy field establishments, a task which required the placement of 5.25 million persons in four and one-half years. Frank Bane discusses the mobilization of volunteer workers for selective service, civilian defense and rationing, and Edgar Young analyzes the procedures by which the Bureau of the Budget fixed "ceilings" for civilian employment. Egon F. Ranshofen-Wertheimer departs from the general theme of the volume in an essay on "The International Civil Service of the Future". Louis Brownlow concludes the series with a discussion of "Successes and Failures" which is char-

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acterized by his usual keen perception. The composite impression from the several contributions is that our society has enormous reserves of administrative talent which in time of crisis can be mobilized for the public service. It cannot be said that the treatment of this process of mobilization and management in this symposium is definitive, but the collection has the great merit of consisting of contributions by persons intimately connected with wartime administration. It will serve as a starting point for more detailed inquiries which need to be made to the end that our normal personnel administration may benefit from the experience with emergency innovations.—V. O. KEY, Jr., Johns Hopkins University.

The subject matter of the symposium *Curbing Inflation Through Taxation* (New York, Tax Institute, Inc., 1944; ix, 261 pp. $2.50) may be conveniently divided into three parts: patterns of inflation, inflationary factors and anti-inflation measures. Working with the tools of a statistician, Milton Gilbert portrays the pattern of incipient inflation in the United States during the first phase of World War II. Relying largely upon the traditional historical approach, Arthur A. Arnold, George A. Tesoro, A. Kenneth Eaton and Mary E. Murphy outlined the development of inflation and the application of corrective measures in the Soviet Union, Italy, Canada and England. Though taking cognizance of a variety of institutional situations, Seth D. Sims, Homer Hoyt, Irvin Bussing, Alvin H. Hansen and James F. Hughes attempt analyses of strategic factors typically associated with inflationary phenomena such as abrupt positive changes in rural and urban land values, marked increases in volume and acceleration of the velocity of the means of payment and public debt expansion. Fiscal devices widely and hopefully advertised as effective inflation antidotes are discussed by Marius Farioletti, Godfrey N. Nelson, Alfred G. Buehler, Roy Blough, Carl Shoup, Seymour E. Harris, Marriner S. Eccles and J. W. Oliver. The devices discussed include sales taxes, income taxes, spending taxes, forced loans, and what have you. The symposium as a whole does not replenish the war-depleted stock in trade of the professional economist. Perusal of the opus is likely to accentuate the bewilderment of the open-minded. The book is worth its price to all those who have the problem solved and settled, but would welcome a set of neatly assorted, nicely polished arguments to belabor their unsuspecting fellow citizens who happen to be otherwise minded.—PAUL H. WUELLER, State College, Pa.

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In his *The War: Fifth Year* (London, Toronto, New York, Oxford University Press, 1945; xv, 401 pp. $2.50), Professor Edgar McInnis of the University of Toronto has maintained the high standards of accuracy, objectivity, balance and clarity which characterized the four earlier volumes in this indispensable series. It was, indeed, a well-deserved tribute to the author's achievement that his work on the fourth year of the war should have been given the Governor-General's Medal for the best non-fiction book written by a Canadian author in 1944. The present volume covers the period from October 1943 through September 1944—a period in which the details now strangely seem to concern the " long ago and far away ". Because of its strictly chronological arrangement, in four chapters covering three months each, the book is somewhat choppy in organization; but it is hard to see how the job could have been done better at this time. As an outline of main events in the fifth twelvemonth of the war, it is reliable, handy, informative and interesting. There is the usual useful supplementary material of good maps, chronology and documentary texts. The introduction by Field Marshal Sir Henry Maitland Wilson is a gem in its condensation of the high lights of a year's military events into the space of five pages. One cannot help but be impatient for the early appearance of the sixth volume in the series.—WALTER CONSUELO LANGSAM, Wagner College.

The importance of *Korea and the Old Orders in Eastern Asia,* by M. Frederick Nelson (Baton Rouge, Louisiana State University Press, 1945; xvi, 326 pp. $3.75), can best be stated in connection with the present international situation. Americans have been interested in the Korean question at various times: in the eighteen eighties, the decade in which we established treaty relations with the Korean kingdom; from 1905 to 1910, as Japan took over that unhappy land; after the first World War, when Koreans staged an unsuccessful revolution; and in 1943, when Churchill, Roosevelt and Chiang Kai-shek agreed at Cairo that Korea should " in due course " be independent. In all these instances, however, most citizens of the United States considered the problem of Korea as a secondary one. Only with the end of World War II, only with the occupation of Korea by our own troops, have we come to realize that the location and resources of Korea give her importance out of all proportion to her population or her power. The matter has been brought into focus by the complications resulting from the division of Korea into Russian and American zones of occupation;

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and it is more than clear that the Korean question will be before us for some time to come. As we turn our attention to Korea, we realize how little we know about that area. At the end of the last and the beginning of the present century, there appeared a number of volumes bearing on the region. Since then there have been very few; and we therefore welcome the appearance of the present study. It does not deal with the situation today, but does provide background information which gives the reader insight into more recent developments. *Korea and the Old Orders in Eastern Asia* is concerned primarily with the political international status of Korea from the earliest times down to the annexation of Korea by Japan in 1910. The heavy emphasis is on the half-century before Japanese annexation. Nelson does, however, give a little more than a third of his space to the earlier years. For this part of his book, he relies on studies available in English and French and on English translations of Oriental classics. The result is a useful introduction to the understanding of Korean-Chinese-Japanese relationships. Doubtless the exploitation of untranslated Oriental documents will add to our knowledge of this subject in the years to come; but Nelson has made a good beginning. For the period of his concentration, he uses published materials in the languages of western Europe, private manuscript collections, and the unpublished collections of the United States Department of State. He handles his information competently, and presents his conclusions clearly, though he deals with some important subjects in a rather cursory fashion. He does give the over-all view, however, and gives it very well. What is more, he treats his subject calmly, avoiding the bias and the special pleading which mark many of the volumes dealing with the diplomacy of the Far East.—Fred Harvey Harrington, University of Wisconsin.

American efforts to impress on the Chinese the need of reaching a measure of unity as a prerequisite to our aid in rebuilding a sound political and economic structure lend timeliness to *The Chinese Constitution: A Study of Forty Years of Constitution-making in China* by Pan Wei-tung (Washington, The Catholic University of America Press, 1945; xi, 327 pp. $4.00). It was in 1905 that the Empress Dowager—struck with the success of the Japanese in stabilizing the Throne and governing the nation by means of a constitution—followed the Japanese example by sending a commission abroad to study Western governments. From this resulted two documents, one in 1908 and the second soon after the Revolution had broken out in 1911, each of which foreshadows a constitutional monarchy similar to that of Japan.

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Then the Revolution and its deflection through the strong dictatorship of President Yuan Shi-k'ai, and the bewildering succession of military chieftains, with the various constitutional changes adopted or proposed, are sketched as milestones in the first twenty years of the Revolution. The author's main task, however, is to trace out the basic political program of Dr. Sun with the economic reforms to be carried out by the proposed five-power government which was to be set up when the Kuomintang should be successful. The fundamental aims are to realize Dr. Sun's "Three Principles of the People" (Livelihood or economic welfare, Democracy—eventually, after periods of military rule and tutelage—and Nationalism). Despite setbacks arising from civil war between Chiang and the Communists (each emphasizing different parts of Dr. Sun's ideology) and the Japanese war, Chiang Kai-shek has reiterated in his speeches, and the Party in its declarations, that they still aim at realizing the "Three Principles" as soon as practicable. In the peculiar addition of the Examination and Censor Departments to the usual division of governmental powers, making five instead of our familiar three, we have a survival of what the Chinese conceive as one of the most valued features of their old political organization. The author seems to believe that this is good—that constitutions should arise from the nation's past and be formulated to meet the needs of the day. It is needless to add that none of these constitutions ever went into full effect; but they reflect the groping after that definite, stable government so eagerly desired. The specialist will welcome the appendixes containing the full translation of all the constitutional documents since 1908.—WILLIAM J. HAIL, College of Wooster.

On the eve of the Revolution the constitutional issues between Great Britain and her colonies were on two distinct levels. On the upper level was the imperial problem—the position of the colonies in the British Empire. To the colonists, however, certain secondary issues related to the attainment of greater self-government within the colonies —curbing the executive, guaranteeing due process, securing parliamentary privileges, etc.—were debated with equal fervor. Ellen E. Brennan's monograph on *Plural Office-Holding in Massachusetts, 1760-1780: Its Relation to the "Separation" of Departments of Government* (Chapel Hill, University of North Carolina Press, 1945; xiii, 227 pp. $3.00) intensively examines one aspect of the latter issue. While historians have freely conceded that resentment of plural office-holding was deep-seated in the American colonies, the author

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questions the sincerity of some of the opponents of this practice. When the royal nepotists were turned out, the champions of independence proceeded in a number of cases to dispense offices and fees liberally to insiders who had gained public office. It would not be fair to consider this struggle as nothing but a battle between the "ins" and the "outs", for opposition to plural office-holding led to the incorporation in the Massachusetts constitution of 1780 of Montesquieu's conception of checks and balances and separation of departments. They even went so far as to disqualify judges from hearing appeals from their own judgments, a practice which was already venerable on the Atlantic seaboard. In following Virginia's lead, Massachusetts attained separation of powers chiefly by a separation in office-holding, although, as the author painstakingly points out, the results obtained were disappointing to those who opposed conferring the power of impeachment upon the legislature or granting the governor and council numerous judicial powers. These dissents were reënforced by some eloquent prayers of ministers over the separation of departments. In practice, after the adoption of the constitution, the General Court held on to important judicial powers and the Supreme Judicial Court exercised administrative functions not unlike those exercised by colonial tribunals. The author argues, without substantiating evidence, that checks and balances are as necessary today as in 1780 in order to secure government in the public interest. Would she scrap the administrative structure evolved during the last fifty years? Would she subject the decisions of administrative tribunals to review by the judicial department? If the chief objective of separation of powers is to prevent plural office-holding, the issue is moribund today. But if the aim is government in the public interest, then we are entitled to something more than a mere opinion to demonstrate that such strict separation in this day and age is compatible with effective political action in a democracy.—RICHARD B. MORRIS, The College of the City of New York.

The successful "Forty-Eighters", such as Carl Schurz, are well known. The more numerous, equally talented, radical Forty-Eighters are largely forgotten. Professor Carl Wittke's biography—*Against the Current: The Life of Karl Heinzen (1809-80)* (Chicago, University of Chicago Press, 1945; x, 342 pp. $3.75)—very ably lifts one of these radicals out of their obscurity and thereby sheds much light upon their activities and ideas. Heinzen was born in the lower German Rhineland, grew up under Prussian rule, and was educated in the

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usual schools—and the University of Bonn. Endowed with tremendous imagination, keen intellectual powers, and a hearty physique, he never found a congenial life situation for the full use of all his varied talents. Prussianism, as he experienced it in school, army and bureaucracy, bred in him profound hatred for repression, militarism and autocracy. While he served in the bureaucracy (1832-1840), he wrote poetry, satirical comedies, and newspaper contributions on music and belles-lettres, but, as experience convinced him that "Prussian bureaucracy was primarily a means to enslave the people in the interests of an absolute monarchy, which sought to reduce every independent act to a 'state function'" (p. 27), he became absorbed in political subjects. In his official reports, letters to superiors (one to the king!), and published discourses he pointed out the evils of bureaucracy. Official disapproval finally induced him to resign. Upon publishing an exposé of the system in 1845 he had to flee into Belgium and Switzerland where he met and rejected Marx and Engels and engaged in dangerous activities to promote a democratic-republican revolution in Germany. The outbreak of the 1848 revolutions brought him back from America where he had just gone, only to have his high hopes dashed to the ground. Returning to New York in 1850, he tried a number of unsuccessful journalistic ventures before he founded in Cincinnati in 1853 the German-language weekly *Der Pionier* which he published and edited under great financial difficulties until the last year of his life (after 1858 in Boston). This was the greatest single achievement of his life. One of the best-written and most thought-provoking journals of its time, it served as the sounding board for Heinzen's radical republicanism which he expounded with caustic language. Political ineptitude and failure to master the American language kept him from reaching many readers other than German radicals. Heinzen yearned unceasingly for the transformation of Germany into a free democratic republic where liberty and humanitarianism should prevail. As this hope faded, he made remarkably accurate predictions of the woes that have since befallen the land of his birth. America he regarded as the "great experiment in liberty and humane culture and a process forever unfinished" (p. 307). He abhorred slavery thoroughly and pioneered racial equality and women's rights. Never a nationalist, he "pictured his adopted fatherland as growing steadily in culture . . . absorbing elements from all over the world, and developing a unique civilization", to be ruled by "intelligence, human culture, and the principles of liberty" (p. 307).—FERDINAND P. SCHULTZ, New York City.

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Those who through the years have followed the evolving philosophy of Louis Mumford on urbanism in its many manifestations will welcome the publication of *City Development: Studies in Disintegration and Renewal* (New York, Harcourt, Brace and Company, 1945; 248 pp. $2.00). For those less familiar with the author's approach, it will serve as a convenient review of the high spots in the work of one who has made substantial contributions to an understanding of how people live and, more importantly, ought to live in urban society. The book is composed of six studies, previously published and selected by the author specifically without reëditing, with some retrospective footnotes to illustrate various phases of urban development. There is one most consistent element in Mr. Mumford's philosophy over the span of approximately a quarter of a century covered by the selections. He does not approve of the way in which cities have grown. In this, he is detailed, specific and vigorous. As becomes the philosopher rather than the artisan, his recommendations for improvements are in much softer focus.—MILLER MCCLINTOCK, New York City.

Seargent Smith Prentiss, financial plunger, drunkard, gambler and cripple, was also one of America's most popular orators in the middle of the last century. Why he was is a question which Dallas C. Dickey does not satisfactorily answer in *Seargent S. Prentiss: Whig Orator of the Old South* (Baton Rouge, Louisiana State University Press, 1945; xiv, 422 pp. $4.00). Spread-eagle speaking of the kind at which Prentiss was extremely adept was a national characteristic less interesting in itself than in its causes. Why this reckless throwing about of language, this vulgar and tasteless spinning of elaborate metaphor and classical allusion, this false eloquence which betrayed at every word its abysmal ignorance of all proportion? Were Americans so conscious of their lack of a culture that they had to try to manufacture one? Or was it their excessive desire to see themselves as latter-day Romans? A study of Prentiss might be expected to speculate upon such problems, for he was among the worst offenders of his time. Certainly he is of little importance in any other light. His political career was short and minor; his character was more distinguished by oddity than greatness. Professor Dickey's biography, however, dwells at much length upon Prentiss' history as a typical Southern Whig, and summarizes a good many of his speeches in the process. The proportion of serious thought in this book must be determined by some kind of infinitesimal calculus. Neither its excessive length nor its pedestrian style succeeds in demonstrating that its subject is of an importance which deserves such exhaustive and exhausting treatment.—RUDOLPH VON ABELE, Harrington Park, N. J.

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